

# ***NORTH CAROLINA REGISTER***

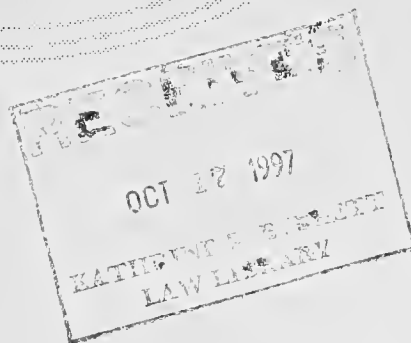
**VOLUME 12 • ISSUE 8 • Pages 612 - 742  
October 15, 1997**

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Physical Therapy Examiners  
Professional Engineers & Land Surveyors  
Real Estate Commission  
Transportation  
Rules Review Commission  
Contested Case Decisions

## **PUBLISHED BY**

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For those persons that have questions or concerns regarding the Administrative Procedure Act or any of its components, consult with the agencies below. The bolded headings are typical issues which the given agency can address, but are not inclusive.

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# NORTH CAROLINA REGISTER



**Volume 12, Issue 8  
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**October 15, 1997**

This issue contains documents officially filed through September 24, 1997.

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# NORTH CAROLINA REGISTER

## Publication Schedule

(August 1997 - May 1998)

FILING DEADLINES			NOTICE OF RULE-MAKING PROCEEDINGS		NOTICE OF TEXT (either column A or column B)						
volume and issue number	issue date	last day for filing	60 <sup>th</sup> day	earliest register issue for publication of text	earliest date for public hearing	A. non-substantial economic impact			B. substantial economic impact		
						end of required comment period	deadline to submit in RRC for review at next RRC meeting	first legislative day of the next regular session	end of required comment period	deadline to submit to RRC for review at next RRC meeting	first legislative day of the next regular session
12:03	08/01/97	07/11/97	09/30/97	10/01/97	08/18/97	09/02/97	09/22/97	05/11/98	09/30/97	10/20/97	05/11/98
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12:22	05/15/98	04/24/98	07/14/98	07/15/98	06/01/98	06/15/98	06/22/98	01/27/99	07/14/98	07/20/98	01/27/99

## EXPLANATION OF THE PUBLICATION SCHEDULE

This Publication Schedule is prepared by the Office of Administrative Hearings as a public service and the computation of time periods are not to be deemed binding or controlling. Time is computed according to 26 NCAC 2C .0302 and the Rules of Civil Procedure, Rule 6.

GENERAL	FILING DEADLINES	NOTICE OF RULE-MAKING PROCEEDINGS	NOTICE OF TEXT
<p>The North Carolina Register shall be published twice a month and contains the following information submitted for publication by a state agency:</p> <ol style="list-style-type: none"><li>(1) temporary rules;</li><li>(2) notices of rule-making proceedings;</li><li>(3) text of proposed rules;</li><li>(4) text of permanent rules approved by the Rules Review Commission;</li><li>(5) notices of receipt of a petition for municipal incorporation, as required by G.S. 120-165;</li><li>(6) Executive Orders of the Governor;</li><li>(7) final decision letters from the U.S. Attorney General concerning changes in laws affecting voting in a jurisdiction subject of Section 5 of the Voting Rights Act of 1965, as required by G.S. 120-30.9H;</li><li>(8) orders of the Tax Review Board issued under G.S. 105-241.2; and</li><li>(9) other information the Codifier of Rules determines to be helpful to the public.</li></ol>	<p><b>ISSUE DATE:</b> The Register is published on the first and fifteen of each month if the first or fifteenth of the month is not a Saturday, Sunday, or State holiday for employees mandated by the State Personnel Commission. If the first or fifteenth of any month is a Saturday, Sunday, or a holiday for State employees, the North Carolina Register issue for that day will be published on the day of that month closest to (either before or after) the first or fifteenth respectively that is not a Saturday, Sunday, or holiday for State employees.</p> <p><b>LAST DAY FOR FILING:</b> The last day for filing for any issue is 15 days before the issue date excluding Saturdays, Sundays, and holidays for State employees.</p>	<p><b>END OF COMMENT PERIOD TO A NOTICE OF RULE-MAKING PROCEEDINGS:</b> This date is 60 days from the issue date. An agency shall accept comments on the notice of rule-making proceeding until the text of the proposed rules is published, and the text of the proposed rule shall not be published until at least 60 days after the notice of rule-making proceedings was published.</p> <p><b>EARLIEST REGISTER ISSUE FOR PUBLICATION OF TEXT:</b> The date of the next issue following the end of the comment period.</p>	<p><b>EARLIEST DATE FOR PUBLIC HEARING:</b> The hearing date shall be at least 15 days after the date a notice of the hearing is published.</p> <p><b>END OF REQUIRED COMMENT PERIOD</b></p> <ol style="list-style-type: none"><li>(1) <b>RULE WITH NON-SUBSTANTIAL ECONOMIC IMPACT:</b> An agency shall accept comments on the text of a proposed rule for at least 30 days after the text is published or until the date of any public hearings held on the proposed rule, whichever is longer.</li><li>(2) <b>RULE WITH SUBSTANTIAL ECONOMIC IMPACT:</b> An agency shall accept comments on the text of a proposed rule published in the Register and that has a substantial economic impact requiring a fiscal note under G.S. 150B-21.4(b1) for at least 60 days after publication or until the date of any public hearing held on the rule, whichever is longer.</li></ol> <p><b>DEADLINE TO SUBMIT TO THE RULES REVIEW COMMISSION:</b> The Commission shall review a rule submitted to it on or before the twentieth of a month by the last day of the next month.</p>

**COMPUTING TIME:** In computing time in the schedule, the day of publication of the North Carolina Register is not included. The last day of the period so computed is included, unless it is a Saturday, Sunday, or State holiday, in which event the period runs until the preceding day which is not a Saturday, Sunday, or State holiday.

**FIRST LEGISLATIVE DAY OF THE NEXT REGULAR SESSION OF THE GENERAL ASSEMBLY:** This date is the first legislative day of the next regular session of the General Assembly following approval of the rule by the Rules Review Commission. See G.S. 150B-21.3, Effective date of rules.

**EXECUTIVE ORDER NUMBER 118  
AMENDING EXECUTIVE ORDER 75 CONCERNING  
IMPLEMENTATION OF THE ALBEMARLE-  
PAMLICO ESTUARINE STUDY  
RECOMMENDATIONS**

WHEREAS, Executive Order No. 75 was issued to establish mechanisms to achieve better local stakeholder involvement in environmental programs in the Albemarle-Pamlico Estuarine region by the creation of five regional Councils and one Coordinating Council; and

WHEREAS, one Council, the Neuse River Basin Regional Council (NRBRC), has been established and has been meeting for over a year; and

WHEREAS, the State's environmental management programs have benefited from the experiences of that Council which have demonstrated that certain modifications can be made to the original Executive Order which will lead to more effective and productive local involvement programs.

NOW, THEREFORE, by the power vested in me as Governor by the laws and Constitution of the State of North Carolina, **IT IS ORDERED** that the following sections of Executive Order No. 75 are amended to read as follows:

**Section 2. Regional Councils.**

**A. Composition.**

**1. Basins to be represented by the Councils.**

Five separate Regional Councils shall represent each of the following five basins, with the area of the river basin being defined by the hydrologic boundaries ascribed to it by the North Carolina Division of Water Quality (DWQ):

**2. Membership of the Regional Councils.**

d. Local government representatives shall serve at the pleasure of the appointing authority and any local government vacancies in the Council shall be filled by the appointing authority. In the event of an interest group vacancy, the Secretary of the Department of Environment and Natural Resources shall solicit nominations from current Council members, the Department, and the general public. Interest group representatives serve at the pleasure of the Secretary. The Secretary will select an acting chair of each Council who will serve until the official selection of a chair by the Council membership is accomplished.

**B. Duties.**

**1. A major responsibility of the Regional Councils**

is to make recommendations to local, state, and federal regulatory authorities on how to maintain and improve water quality and other environmental resources in their individual river basins. Each Regional Council will set their own priorities and develop a plan of work which will address those priorities. The Councils shall also advise the public and affected stakeholders of actions and information relevant to environmental management in the basin. The Councils shall have no authority other than as advisory bodies.

Subject to the amendments provided above, Executive Order No. 75 shall remain in full force and effect.

This order is effective immediately.

Done in the Capital City of Raleigh, North Carolina, this the 15th day of September, 1997.

**EXECUTIVE ORDER NO. 119  
RESCISSION OF GOVERNOR MARTIN  
EXECUTIVE ORDER NO. 169**

WHEREAS, Governor James G. Martin signed Executive Order No. 169 on the 26th day of June, 1992, and thereby implemented criminal record checks of applicants for direct care positions within the former Department of Human Resources, now the Department of Health and Human Services; and,

WHEREAS, the North Carolina General Assembly passed Senate Bill 924, S.L. 1997-260, which will become effective October 1, 1997, and which will provide for criminal record checks for these applicants; and,

WHEREAS, by virtue of this legislative action, there is no longer a need for Martin Executive Order No. 169 to remain in effect.

NOW, THEREFORE, by the power vested in me as Governor by the Constitution and laws of North Carolina, **IT IS ORDERED:**

**Section 1. Rescission**

Executive Order No. 169 executed by Governor James G. Martin on June 26, 1992, is hereby rescinded.

**Section 2. Effective Date**

This rescission shall be effective October 1, 1997.

Done in the Capital City of Raleigh, North Carolina, this the 15th day of September, 1997.

*This Section contains public notices that are required to be published in the Register or have been approved by the Codifier of Rules for publication.*

North Carolina Department of Labor  
Division of Occupational Safety and Health

**NOTICE OF VERBATIM AND AUTOMATIC ADOPTIONS  
OF FEDERAL STANDARDS**

In consideration of G.S. 150B-21.5(c), the Occupational Safety and Health Division of the Department of Labor hereby gives notice that:

- (1) it has submitted a permanent rule change to amend 13 NCAC 07F.0101 to reflect the verbatim adoption of recently issued federal OSHA amendments to the Methylene Chloride standard: 29 CFR 1910.1052. The federal OSHA amendments address compliance startup dates and the effective dates for compliance with the collection of information and paperwork requirements. [Refs: 62 FR 42666, 8/8/97; 62 FR 43581, 8/14/97; 62 FR 48175, 9/15/97]
- (2) it has submitted a permanent rule change to amend 13 NCAC 07F.0501 to reflect the verbatim adoption of recently issued federal OSHA amendments to the Shipyard Employment standards: 29 CFR 1915. The federal OSHA amendments address the effective dates for compliance with the collection of information and paperwork requirements associated with personal protective equipment for shipyard employment. [Ref.: 62 FR 33547 dated 6/20/97] From an OSHNC enforcement perspective, this rule is only applicable to public sector employees of local governments or of the State of North Carolina. The effective date of the *NC Administrative Code* rule change is October 15, 1997.
- (3) it has submitted permanent rule changes to amend 13 NCAC 07F.0101 and 13 NCAC 07F.0502 to reflect the verbatim adoption of recently issued federal OSHA amendments to 29 CFR 1910 and 29 CFR 1917. In the July 25, 1997, *Federal Register* [62 FR 40141-40234] federal OSHA promulgated a Final Rule that constituted a comprehensive rewrite and update of the regulations for Longshoring and parallel sections of the General Industry and Marine Terminals standards. 29 CFR 1910, 29 CFR 1917, and 29 CFR 1918 were affected. From an OSHNC enforcement perspective, 29 CFR 1918 (Longshoring) is outside of OSHNC jurisdiction and the balance of this final rule is only applicable to public sector employees of local governments or of the State of North Carolina. [Ref.: N.C.G.S. 95-128] The effective date of the *NC Administrative Code* rule change is October 15, 1997.
- (4) the *North Carolina Administrative Code* at 13 NCAC 07A.0301 automatically includes amendments to certain parts of the *Code of Federal Regulations* (CFR), including 29 CFR 1904, Recording and Reporting Occupational Injuries and Illnesses.

Two automatic adoptions have occurred recently. On August 13, 1997, federal OSHA announced the renewal of its current Office of Management and Budget (OMB) approval for 29 CFR 1904.8. 29 CFR 1904.8 addresses the reporting of occupational fatality or multiple hospitalization incidents. [Ref.: 62 FR 43355] On August 22, 1997, federal OSHA issued a Final Rule that consolidates and displays the OMB control numbers applicable to 29 CFR 1904 into a single section: 29 CFR 1904.30. [Ref.: 62 FR 44552] This is only editorial; none of the approvals or requirements are new.

For additional information regarding these verbatim and automatic adoptions please contact:

Peggy D. Morris  
Division of Occupational Safety and Health  
319 Chapanoke Road  
Raleigh, NC 27603-3432  
(919) 662-4581

*An agency may choose to publish a rule-making agenda which serves as a notice of rule-making proceedings if the agenda includes the information required in a notice of rule-making proceedings. The agency must accept comments on the agenda for at least 60 days from the publication date. Statutory reference: G.S. 150B-21.2.*

**TITLE 15A - DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES**

This supplemental agenda will serve as the notice of rule-making proceedings for the following rule-making bodies from October 15, 1997 through December 15, 1997: Commission for Health Services - to rules codified in 15A NCAC 18A; Department of Environment and Natural Resources - to rules codified in 15A NCAC 1J and 1N.

**DENR Regulatory Agenda Index - September 24, 1997**

**ENVIRONMENTAL HEALTH/PUBLIC WATER SUPPLY**

<u>APA #</u>	<u>SUBJECT</u>	<u>RULE CITATION #</u>	
A3469	Drinking Water State Revolving Fund (DWSRF)	15A NCAC 1N	These will be filed as temporary rules.

**WATER QUALITY/CONSTRUCTION GRANTS**

<u>APA #</u>	<u>SUBJECT</u>	<u>RULE CITATION #</u>	
A3470-a	Comprehensive land-use plans to be included in priority criteria	15A NCAC 1J .0401 & .0402	These will be filed as temporary rules.

**ENVIRONMENTAL HEALTH/ENV. HEALTH SERVICES**

<u>APA #</u>	<u>SUBJECT</u>	<u>RULE CITATION #</u>
H6829	Rules Governing Public Swimming Pools (15A NCAC 18A .2500)	15A NCAC 18A .2508; .2513; .2515; .2517; .2518; .2522; .2526; .2528; .2530; .2531; .2532; .2535; .2537; .2539; .2543

APA #: A3469

SUBJECT: Drinking Water State Revolving Fund (DWSRF)

RULE CITATION #: 15A NCAC 1N

STATUTORY AUTHORITY: G.S. 159G-5(d)

DIVISION/SECTION: ENVIRONMENTAL HEALTH/PUBLIC WATER SUPPLY

DIVISION CONTACT: Jessica Miles

DIVISION CONTACT TEL#: (919)733-2321

DATE INITIATED: 9/23/97

DURATION OF RULE: Temporary 1/31/98

TYPE OF RULE:

STAGE OF DEVELOPMENT: Draft Rule Stage

GOV LEVELS AFFECTED: None

REASON FOR ACTION:

To establish procedures and criteria for making low interest loans from the Drinking Water State Revolving Fund (DWSRF).

SCOPE/NATURE/SUMMARY:

Financial assistance to public water supply systems under Title XIV of the Federal Safe Drinking Water Act Amendments of 1996.

APA #: A3470-a

SUBJECT: Comprehensive land-use plans to be included in priority criteria

RULE CITATION #: 15A NCAC 1J .0401 & .0402

STATUTORY AUTHORITY: G.S. 159G-10

DIVISION/SECTION: WATER QUALITY/CONSTRUCTION GRANTS

DIVISION CONTACT: Bobby Blowe

DIVISION CONTACT TEL#: (919)733-6900

DATE INITIATED: 9/23/97

DURATION OF RULE: Temporary 10/23/97

TYPE OF RULE:

STAGE OF DEVELOPMENT: Draft Rule Stage

GOV LEVELS AFFECTED: None

REASON FOR ACTION :

House Bill 515 enacted by the 1997 General Assembly amends G.S. 159G-10 which governs the priority criteria for funding wastewater and water supply projects. It makes the existence of a comprehensive land-use plan an additional general criteria for prioritizing local units of government for loan or grant funds. In doing so, it describes different levels of priority including the existence of a comprehensive land-use plan, a plan that exceeds minimum state standards for the protection of water resources, and actions which have been taken to implement the plan. The Section proposes to amend 15A NCAC 1J .0401 and .0402 in order to comply with House Bill 515, and proposes a range of bonus points of between 5 and 10 to be added to existing criteria.

APA #: H6829

SUBJECT: Rules Governing Public Swimming Pools (15A NCAC 18A .2500)

RULE CITATION #: 15A NCAC 18A .2508; .2513; .2515; .2517; .2518; .2522; .2526; .2528; .2530; .2531; .2532; .2535; .2537; .2539; .2543

STATUTORY AUTHORITY: G.S. 130A-282

DIVISION/SECTION: ENVIRONMENTAL HEALTH/ENV. HEALTH SERVICES

DIVISION CONTACT: Jim Hayes

DIVISION CONTACT TEL#: (919)715-0924

DATE INITIATED: 9/22/97

DURATION OF RULE: Permanent 5/1/99

TYPE OF RULE:

STAGE OF DEVELOPMENT: Draft Rule Stage

GOV LEVELS AFFECTED: None

REASON FOR ACTION :

.2508 Definitions

The definition of "repair" is being expanded to include deck replacements in some circumstances. This will save pool owners from having to submit engineered plans for deck replacements.

.2513 Sewage System and Other Wastewater Disposal

To allow deck drains to drain indirectly to a sewer without an air gap. This will simplify construction of pools in some circumstances.

.2515 Design Details

One change limits the circumstances under which a hydrostatic relief valve is required and could result in cost saving on shallow pools. Another change will allow decorative features such as waterfalls or swim-up bars in swimming pools if they meet certain guidelines.

.2517 Diving Equipment

Increase the required diving area depth for a one meter diving board to ten feet to be consistent with national standards.

.2518 Circulation System

Technical change to correct inaccurate information.

.2522 Decks

Prohibit pools from being built significantly above or below deck level.

.2526 Dressing and Sanitary Facilities

Require restrooms near pools at hotels and motels where the farthest guest room is more than 300 feet from the pool. Reduce the number of toilets, urinals, lavatories and showers required at very large public pools.

.2528 Fences

Meet national standards for pool fences with respect to climbability and accessibility of gate latches.

**.2530 Safety Provisions**

Accept alternative safety equipment now being used by some lifeguards. Require a telephone or other means of emergency notification within 300 feet of all pools.

**.2531 Wading Pools**

Increase fence height for wading pools to four feet to be consistent with national standards.

**.2532 Spas and Hot Tubs**

Change construction standards for spa drains to meet national standards.

**.2535 Water Quality Standards**

Allow chlorine or bromine feeders which meet NSF International guidelines.

**.2537 Maintenance and Operation**

Require existing pools to be surrounded by a fence or other structure which will exclude small children.

**.2539 Suction Hazard Reduction**

Require multiple suction outlets for all public pools to reduce the risk of entrapment on a single suction outlet.

**.2543 Water Recreation Attractions**

Establish standards for waterpark rides and allow those rides to vary from the standards for other types of public swimming pools.

*A Notice of Rule-making Proceedings is a statement of subject matter of the agency's proposed rule making. The agency must publish a notice of the subject matter for public comment at least 60 days prior to publishing the proposed text of a rule. Publication of a temporary rule serves as a Notice of Rule-making Proceedings and can be found in the Register under the section heading of Temporary Rules. A Rule-making Agenda published by an agency serves as Rule-making Proceedings and can be found in the Register under the section heading of Rule-making Agendas. Statutory reference: G.S. 150B-21.2.*

## **TITLE 10 - DEPARTMENT OF HUMAN RESOURCES**

### **CHAPTER 3 - FACILITY SERVICES**

**Notice of Rule-making Proceedings** is hereby given by the Division of Facility Services in accordance with G.S. 150B-21.2. The agency shall subsequently publish in the Register the text of the rules it proposes to adopt as a result of this notice of rule-making proceedings and any comments received on this notice.

**Citation to Existing Rules Affected by this Rule-Making:** 10 NCAC 3R .0214. Other rules may be proposed in the course of the rule-making process.

**Authority for the rule-making:** G.S. 131E-177(1)

**Statement of the Subject Matter:** Clarifies the terms (comparable) as use in the definition of "Replace Equipment" set forth in G.S. 131E-176(22a).

**Reason for Proposed Action:** The rule was the subject of a contested case and is being changed based on the Agency conclusions in that case. The agency is recommending the following:

#### **.0214 REPLACEMENT EQUIPMENT**

(a) The purpose of this Rule is to define the terms used in the definition of "replacement equipment" set forth in G.S. 131E-176(22a).

(b) "Activities essential to acquiring and making operational the replacement equipment" means those activities which are indispensable and requisite, absent which the replacement equipment could not be acquired or made operational.

(c) "Comparable medical equipment" means equipment which is functionally similar and which is used for the same diagnostic or treatment purposes.

(d) Replacement equipment is comparable to the equipment being replaced if:

- (1) it has the same basic technology as the equipment currently in use, although it may possess expanded capabilities due to technological improvements; and
- (2) it is functionally similar and is used for the same diagnostic or treatment purposes as the equipment currently in use and is not used to provide a new health service; and
- (3) the acquisition of the equipment does not result in more than a 10% increase in patient charges or per

procedure operating expenses within the first twelve months after the replacement equipment is acquired; and

~~(4) it will be located on the same site or campus as the equipment currently in use.~~

(e) Replacement equipment is not comparable to the equipment being replaced if:

(1) the replacement equipment is new or reconditioned, the existing equipment was purchased second-hand, and the replacement equipment is purchased less than three years after the acquisition of the existing equipment; or

(2) the replacement equipment is new, the existing equipment was reconditioned when purchased, and the replacement equipment is purchased less than three years after the acquisition of the existing equipment; or

~~(3) the replacement equipment is permanently fixed equipment and the existing equipment is one a piece of mobile equipment which is shared between two or more facilities; or~~

~~(4)~~(3) the replacement equipment is capable of performing procedures that could result in the provision of a new health service or type of procedure that has not been provided with the existing equipment; or

~~(5)~~(4) the replacement equipment is purchased and the existing equipment is leased, unless the lease is a capital lease.

**Comment Procedures:** Written comments concerning this rule-making action must be submitted by December 15, 1997 to Jackie Sheppard; Rule-making Coordinator, Division of Facility Services, PO Box 29530, 701 Barbour Drive, Raleigh, NC 27603.

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### **SUBCHAPTER 3U - CHILD DAY CARE STANDARDS**

**Notice of Rule-making Proceedings** is hereby given by the North Carolina Child Care Commission in accordance with G.S. 150B-21.2. The agency shall subsequently publish in the Register the text of the rules it proposes to adopt as a result of this notice of rule-making proceedings and any comments received on this notice.

**Citation to Existing Rules Affected by this Rule-Making:** 10 NCAC 3U.



**Authority for the rule-making:** *G.S. 143B-168.3*

**Statement of the Subject Matter:** *Child Day Care Rules*

**Reason for Proposed Action:** *The North Carolina General Assembly recently enacted S.L. 97-0506 which revises G.S. 110, the law for child care centers and family child care homes. The North Carolina Child Care Commission proposes to review all the child day care rules for any changes needed to conform to the new child care law.*

**Comment Procedures:** *Questions or written comments regarding this matter may be directed to Nancy Guy, APA Coordinator, Division of Child Development, 319 Chapanoke Road, PO Box 29553, Raleigh, NC 27526-0553; (919)662-4543.*

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## CHAPTER 20 - VOCATIONAL REHABILITATION

**Notice of Rule-making Proceedings** is hereby given by the Department of Health and Human Services - Division of Vocational Rehabilitation Services in accordance with G.S. 150B-21.2. The agency shall subsequently publish in the Register the text of the rules it proposes to adopt as a result of this notice of rule-making proceedings and any comments received on this notice.

**Citation to Existing Rules Affected by this Rule-Making:** *10 NCAC 20C .0200, .0600. Other rules may be proposed in the course of the rule-making process.*

**Authority for the rule-making:** *G.S. 143-545A; 143-546A; 34 C.F.R. 361.36; 34 C.F.R. 361.41; 34 C.F.R. 361.42; 34 C.F.R. 361.43; 34 C.F.R. 361.44*

**Statement of the Subject Matter:** *The rules in these sections deal with eligibility for services and the order of selection for when the Division has insufficient resources to serve all applicants who are determined eligible. The rules will be amended to require that the Division determine each client's priority category and notify the individual of the category only when the Division implements an order of selection.*

**Reason for Proposed Action:** *The final Federal regulation regarding order of selection for services issued February 11, 1997 requires the assignment of an individual to a particular category and notification of that assignment when the State implements an order of selection.*

**Comment Procedures:** *Written comments should be mailed to Jackie Stalnaker, P.O. Box 26053, Raleigh, NC 27611.*

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## CHAPTER 26 - DIVISION OF MEDICAL ASSISTANCE

**Notice of Rule-making Proceedings** is hereby given by the DHHS - Division of Medical Assistance in accordance with G.S. 150B-21.2. The agency shall subsequently publish in the Register the text of the rules it proposes to adopt as a result of this notice of rule-making proceedings and any comments received on this notice.

**Citation to Existing Rules Affected by this Rule-Making:** *10 NCAC 26H .0401. Other rules may be proposed in the course of the rule-making process.*

**Authority for the rule-making:** *G.S. 108A-25(b)*

**Statement of the Subject Matter:** *This rule establishes and sets parameters that are used to establish maximum physician allowables.*

**Reason for Proposed Action:** *To cap physician allowable amounts not to exceed the Medicare allowable amount for the same or similar services, or if the fee may exceed the Medicaid fees for similar services, or if the fee is too high in relation, to the skills, time and other resources required to provide the particular service.*

**Comment Procedures:** *Written comments concerning this rule-making action must be submitted to Portia W. Rochelle, Rule-making Coordinator, Division of Medical Assistance, 1985 Umstead Drive, Raleigh, NC 27603.*

## TITLE 12 - DEPARTMENT OF JUSTICE

### CHAPTER 11 - N.C. ALARM SYSTEMS LICENSING BOARD

**Notice of Rule-making Proceedings** is hereby given by the North Carolina Alarm Systems Licensing Board in accordance with G.S. 150B-21.2. The agency shall subsequently publish in the Register the text of the rule it proposes to adopt as a result of this notice of rule-making proceedings and any comments received on this notice.

**Citation to Existing Rules Affected by this Rule-Making:** *12 NCAC 11 .0210. Other rules may be proposed in the course of the rule-making process.*

**Authority for the rule-making:** *G.S. 74D-5(a)(2)*

**Statement of the Subject Matter:** *To amend the requirements for the electrical test approved by the Board.*

**Reason for Proposed Action:** *The Board has determined that it no longer needs to approve and administer an electrical test. This amendment will not affect the requirement that*

each firm, association, corporation, department, division, or branch office must maintain at all times a licensee or registered employee who holds a license for either a SP-LV, limited, intermediate or unlimited examination as administered by the Board of Examiners of Electrical Contractors.

**Comment Procedures:** Written comments concerning this rule-making activity may be submitted to W.A. Hoggard, III, Administrator, NC Alarm Systems Licensing Board, 3320 Old Garner Rd., Raleigh, NC 27626.

## TITLE 21 - OCCUPATIONAL LICENSING BOARDS

### CHAPTER 8 - BOARD OF CERTIFIED PUBLIC ACCOUNTANT EXAMINERS

**Notice of Rule-making Proceedings** is hereby given by the North Carolina State Board of Certified Public Accountant Examiners in accordance with G.S. 150B-21.2. The agency shall subsequently publish in the Register the text of the rules it proposes to adopt as a result of this notice of rule-making proceedings and any comments received on this notice.

**Citation to Existing Rules Affected by this Rule-Making:** 21 NCAC 8A .0309; 8F .0103, .0105, .0302, .0304, .0401, .0410; 8G .0404, .0406; 8H .0001; 8I .0005; 8J .0001, .0006, .0008; 8K .0301. Other rules may be proposed in the course of the rule-making process.

**Authority for the rule-making:** G.S. 55B; 93-12(3); 93-12(8b); 93-12(8c); 93-12(9)

**Statement of the Subject Matter:** The NC State Board of CPA Examiners proposes to amend rules relevant to the Uniform CPA Examination (definitions, applications, conditioning, and education requirements); CPA certification; continuing professional education (CPE); reciprocal certification; certificate status (renewal, revocation, forfeiture, surrender, reissuance, and reinstatement); firm registration; and registered limited liability partnerships. The rule proposed for adoption clarifies the education requirement for CPA certification.

**Reason for Proposed Action:** To amend and adopt language resulting from recent statutory changes. To clarify application and conditioning requirements for CPA exam candidates. To clarify CPA certification requirements, continuing professional education (CPE), and certificate status. To clarify filing requirements for firms and registered limited liability partnerships.

**Comment Procedures:** Any person interested in these rules

may submit comments by mailing the comments to Robert N. Brooks, Executive Director, NC State Board of CPA Examiners, PO Box 12827, Raleigh, NC 27605.

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### CHAPTER 48 - NORTH CAROLINA BOARD OF PHYSICAL THERAPY EXAMINERS

**Notice of Rule-making Proceedings** is hereby given by the North Carolina Board of Physical Therapy Examiners in accordance with G.S. 150B-21.2. The agency shall subsequently publish in the Register the text of the rule(s) it proposes to adopt as a result of this notice of rule-making proceedings and any comments received on this notice.

**Citation to Existing Rules Affected by this Rule-Making:** 21 NCAC 48A .0003, .0005; 48B .0002; 48C , Section .0100 (.0101, .0102, .0103), Section .0300 (.0301, .0302, .0401); 48D .0002, .0003, .0004, .0005, .0006, .0009, .0010; 48E, Section .0100 (.0101, .0104, .0110); 48F .0002; 48G, Section .0200 (.0202), Section .0400 (.0403, .0404), Section .0500 (.0504, .0512, ) Section .0600 (.0601). Other rules may be proposed in the course of the rule-making process.

**Authority for the rule-making:** G.S. 90-270.24 through 90-270.39

**Statement of the Subject Matter:** Rules related to examinations and testing procedures, language requirements for foreign trained, graduate categories, fees, and disciplinary actions.

**Reason for Proposed Action:** To bring rules into compliance with changes in testing procedures from paper and pencil examinations to computer based testing (CBT), to eliminate the categories of "Graduate Physical Therapist and Graduate Physical Therapist Assistant" as CBT has replaced this need, to set the language requirements for foreign trained applicants to the standards recommended by the Federation of State Boards of Physical Therapy, to clarify responsibilities of licensees, to raise application fees (\$10.00) for Physical Therapist Assistants to more accurately reflect actual costs of administration, to identify new areas of disciplinary action as suggested by the Board's Investigative Committee, to clearly authorize subpoena power to the Investigative Committee for patient records, and to make rules gender neutral.

**Comment Procedures:** Written comments may be submitted on the subject matter of the proposed rule making to Ben F. Massey, Jr., PT, Executive Director, at the Board's office. Address: 18 West Colony Place, Suite 120, Durham, NC, 27705, Fax 919-490-5106.

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### CHAPTER 56 - BOARD OF PROFESSIONAL

**ENGINEERS AND LAND SURVEYORS**

**Notice of Rule-making Proceedings** is hereby given by the North Carolina State Board of Registration for Professional Engineers and Land Surveyors in accordance with G.S. 150B-21.2. The agency shall subsequently publish in the Register the text of the rule(s) it proposes to adopt as a result of this notice of rule-making proceedings and any comments received on this notice.

**Citation to Existing Rules Affected by this Rule-Making:** 21 NCAC 56.

**Authority for the rule-making:** G.S. 89C-10(a)

**Statement of the Subject Matter:** Board Rules for Professional Engineers and Land Surveyors

**Reason for Proposed Action:** To incorporate Board approved changes and staff recommended technical changes and to make gender neutral.

**Comment Procedures:** Submit comments in writing to the Rule-making Coordinator, David S. Tuttle, Board Counsel, NC State Board of Registration for Professional Engineers and Land Surveyors, 3620 Six Forks Rd., Suite 300, Raleigh, NC 27609.

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**CHAPTER 58 - REAL ESTATE COMMISSION**

**Notice of Rule-making Proceedings** is hereby given by the North Carolina Real Estate Commission in accordance with G.S. 150B-21.2. The agency shall subsequently publish in the Register the text of the rule(s) it proposes to adopt as a result of this notice of rule-making proceedings and any comments received on this notice.

**Citation to Existing Rules Affected by this Rule-Making:** 21 NCAC 58A .0101, .0103 - .0105, .0107 - .0110, .0114, .0302, .0502, .0505 - .0506, .0601, .0613 - .0614 and .1702; .0402; and 58E .0407. Other rules may be proposed in the course of the rule-making process.

**Authority for the rule-making:** G.S. 47E-4(b); 55B-5; 66-68; 93A-1; 93A-2(b); 93A-3(c); 93A-4(a)(b)(d); 93A-4A; 93A-6(a); 93A-51; 93A-54(d); and 150B-38(h).

**Statement of the Subject Matter:** 21 NCAC 58A .0101 - Display of License; .0103 - Change of Name or Address; .0104 - Agency Agreements and Disclosure; .0105 - Advertising; .0107 - Handling and Accounting of Funds; .0108 - Retention of Records; .0109 - Brokerage Fees and Compensation; .0110 - Broker-In-Charge; .0114 - Residential Property Disclosure Statement; .0302 - Filing and Fees;

.0502 - Business Entities; .0505 - Reinstatement of Expired License, Revoked, Surrendered or Suspended License; .0506 - Salesman to be Supervised by Broker; .0601 - Form/Prep/Complaints/Motions/Other Pleadings/Contested Cases; .0613 - Scope; .0614 - Summary Suspension; .0614 - Summary Suspension; .1702 - Continuing Education Requirement; 21 NCAC 58B .0402 - Agency Disclosure in Timeshare Transactions; 21 NCAC 58E .0407 - Per Student Fee.

**Reason for Proposed Action:** 21 NCAC 58A .0101 - to eliminate the requirement that real estate licensees display their license certificates at their offices, and instead require licensees to produce their license pocket cards upon request as proof of licensure. 21 NCAC 58A .0103 - to clarify that licensees must report personal and business name changes to the Commission within 10 days of such change. 21 NCAC 58A .0104 - to include a discussion of designated agency in the "Description of Agent Duties and Relationships" statement. 21 NCAC 58A .0105 - to eliminate the requirement that licensees furnish the Commission a copy of their assumed name registration certificate(s) when a firm or assumed name does not set forth the surname of the licensee. 21 NCAC 58A .0107 - to codify the requirement that brokers shall deposit cash into their trust accounts within three banking days; to clarify that licensees must safeguard trust monies, and not convert or allow others to convert them to their personal use; to codify a procedure for disposing of disputed and abandoned trust monies. 21 NCAC 58A .0108 - to codify that transaction records, including records of incomplete transactions, must be retained by the broker-in-charge of the office where the transaction was conducted. 21 NCAC 58A .0109 - to codify that real estate licensees shall not compensate unlicensed persons or entities engaging in real estate brokerage activity in this state. 21 NCAC 58A .0110 - to clarify that a broker can be the broker-in-charge of more than one firm when all of the firms have the same physical location; to clarify that an office can have only one broker-in-charge; and to eliminate the requirement that a "Verification of Salesman Experience" form be furnished to all salesmen when they terminate their association with their brokers-in-charge, and instead require that the form be provided upon request from the salesman. 21 NCAC 58A .0114 - to codify the Residential Property Disclosure Statement required by G.S. 47E-4(b) and the requirement that licensees use said form. 21 NCAC 58A .0302 - to reinsert paragraph (c) which was inadvertently omitted from the existing rule. 21 NCAC 58A .0502 - to codify the requirement that, when a licensed business entity is the principal broker of another licensed business entity, the individual licensed broker of the principal broker entity shall be responsible for assuring performance of the principal broker's duties with regard to both entities. 21 NCAC 58A .0505 - to refine the requirements for reinstatement of a license that has been suspended, especially when the suspension is for more than one year. 21 NCAC 58A .0506 - to codify the requirement that, in addition to the

salesman's broker-in-charge, the salesman shall be responsible for notifying the Commission when the broker-in-charge terminates his/her supervision of the salesman. 21 NCAC 58A .0601 - to codify that licensees must respond in writing to written inquiries from the Commission. 21 NCAC 58A .0613 - to repeal obsolete rule regarding the Appraisal Board. 21 NCAC 58A .0614 - to codify procedures for the summary suspension of real estate licenses. 21 NCAC 58A .1702 - to codify that reinstatement of a revoked license, a surrendered license or a license expired for more than one year will be treated as an "initial licensure" for continuing education purposes. 21 NCAC 58B .0402 - to clarify that licensees must disclose their agency relationships to the parties in timeshare transactions. 21 NCAC 58E .0407 - to eliminate the requirement that continuing education sponsors must submit a separate check for each separate class session when paying student fees to the Commission.

**Comment Procedures:** Written comments regarding the rules may be sent to or delivered to Ms. Janet B. Dutton c/o NC Real Estate Commission, PO Box 17100, 1313 Navaho Dr., Raleigh, NC 27619-7100.

## TITLE 26 - OFFICE OF ADMINISTRATIVE HEARINGS

### CHAPTER 3 - HEARINGS DIVISION

**Notice of Rule-making Proceedings** is hereby given by the Office of Administrative Hearings in accordance with G.S. 150B-21.2. The agency shall subsequently publish in the Register the text of the rule(s) it proposes to adopt as a result of this notice of rule-making proceedings and any comments received on this notice.

**Citation to Existing Rules Affected by this Rule-Making:** 26 NCAC 3.

**Authority for the rule-making:** G.S. 7A-751

**Statement of the Subject Matter:** Review of OAH rules governing the contested case procedures to assure compliance with current law and current OAH practice.

**Reason for Proposed Action:** To assure that existing rules are in compliance with current laws and practices.

**Comment Procedures:** Written comments should be directed to Susana Honeywell, Rule-making Coordinator, OAH, PO Drawer 27447, Raleigh, NC 27611; or written comments may be faxed to 919-733-3407.

*This Section contains the text of proposed rules. At least 60 days prior to the publication of text, the agency published a Notice of Rule-making Proceedings. The agency must accept comments on the proposed rule for at least 30 days from the publication date, or until the public hearing, or a later date if specified in the notice by the agency. The required comment period is 60 days for a rule that has a substantial economic impact of at least five million dollars (\$5,000,000). Statutory reference: G.S. 150B-21.2.*

## **TITLE 12 - DEPARTMENT OF JUSTICE**

**N**otice is hereby given in accordance with G.S. 150B-21.2 that the N.C. Private Protective Services Board intends to amend rules cited as 12 NCAC 7D .0201, .0204, .0504, .0701, .0801, .0902 and .1106. Notice of Rule-making Proceedings was published in the Register for 12 NCAC 7D .0201, .0504, .0701, .0801 and .0902 on August 15, 1996. Notice of Rule-making Proceedings was published in the Register for 12 NCAC 7D .0204 and .1106 on October 15, 1996.

**Proposed Effective Date:** August 1, 1998

**A Public Hearing** will be conducted at 3:00 p.m. on November 3, 1997 at the SBI Conference Room, 3320 Old Garner Road, SBI/Highway Patrol Complex, Raleigh, NC 27626.

### **Reason for Proposed Action:**

**12 NCAC 7D .0201, .0701, .0801, .0902** - The Board is proposing a change to the type and origin of criminal record checks that are submitted with an individual's application.

**12 NCAC 7D .0504** - The current rule requires a polygraph instrument to have a "permanent simultaneous recording on a moving chart." Technology has changed and new instruments no longer record data on a moving chart.

**12 NCAC 7D .0204, .1106** - The Board plans to amend the rules to allow consideration of legally gained experience only.

**Comment Procedures:** Comments may be presented orally or in writing at the hearing. Other written comments concerning this rule-making activity must be submitted no later than November 18, 1997 to: W.A. Hoggard, III, Administrator, NC Private Protective Services Board, 3320 Old Garner Road, Raleigh, NC 27626.

**Fiscal Note:** These Rules do not affect the expenditures or revenues of state or local government funds. These Rules do not have a substantial economic impact of at least five million dollars (\$5,000,000) in a 12-month period.

## **CHAPTER 7 - PRIVATE PROTECTIVE SERVICES**

### **SUBCHAPTER 7D - PRIVATE PROTECTIVE SERVICES BOARD**

#### **SECTION .0200 - LICENSES: TRAINEE PERMITS**

#### **.0201 APPLICATION FOR LICENSES AND TRAINEE PERMITS**

(a) Each applicant for a license or trainee permit shall submit an original and one copy of the application to the Board. The application shall be accompanied by:

- (1) ~~one set~~ two sets of classifiable fingerprints on an applicant fingerprint card;
- (2) one recent head and shoulders photograph(s) of the applicant of acceptable quality for identification, one inch by one inch in size;
- (3) ~~statements~~ certified statement of the result of a ~~local~~ criminal history records search by the ~~city-county~~ identification bureau appropriate governmental authority housing criminal record information or clerk of superior court in each county where the applicant has resided within the immediate preceding 60 months;
- (4) the applicant's non-refundable application fee; and
- (5) actual cost charged to the Private Protective Services Board by the State Bureau of Investigation to cover the cost of criminal record checks performed by the State Bureau of Investigation, collected by the Private Protective Services Board.

(b) Applications for trainee permits shall be accompanied by a notarized statement on a form provided by the Board and signed by the applicant and his prospective supervisor, stating that the trainee applicant shall at all times work with and under the direct supervision of that supervisor.

(c) Private investigator trainees applying for a license must make available for inspection a log of experience on a form provided by the Board.

(d) Each applicant must provide evidence of high school graduation either by diploma, G.E.D. certificate, or other acceptable proof.

*Authority 74C-2; 74C-5; 74C-8.*

#### **.0204 DETERMINATION OF EXPERIENCE**

(a) Experience requirements shall be determined in the following manner:

- (1) one year experience = 1,000 hours;
- (2) two years experience = 2,000 hours;
- (3) three years experience = 3,000 hours.

(b) Applicants must be prepared to make available upon request written documentation and/or verification of experience.

(c) The Board ~~may, for good cause,~~ shall consider ~~any~~ only lawfully gained experience claimed by the applicant if ~~gained while not in possession of a valid~~ when applying for a

license, registration or trainee permit. Such experience may include formal classroom training which is directly related to the private protective services industry. The Board may grant one half hour of credit for each hour of formal training, but shall grant no more than two hundred hours. Paragraph (c) of this Rule is to be considered in addition to any other formal training credits. No credit shall be given for formal training required pursuant to these Rules.

*Authority 74C-5; 74C-8.*

## **SECTION .0500 - POLYGRAPH**

### **.0504 POLYGRAPH INSTRUMENTS**

A polygraph examiner shall not conduct an examination unless the instrument used makes a ~~permanent~~ simultaneous recording ~~on a moving chart~~ of at least three physiological tracings: the pneumograph, the cardiophymograph, and the galvanograph. This recording must be in a form suitable for examination by another polygraph examiner. Such recordings shall be available to the Board or its designated representative. This requirement shall not prohibit recording additional physiological phenomenon on the same charts. A polygraph examiner shall not conduct an examination on an instrument unless the manufacturer has provided information for self-calibration and sensitivity standards for that instrument. A polygraph examiner shall calibrate his instrument at least monthly and keep a signed and dated record of the dates of calibration as well as a signed and dated chart of that calibration.

*Authority 74C-5.*

## **SECTION .0700 - SECURITY GUARD REGISTRATION (UNARMED)**

### **.0701 APPLICATION FOR UNARMED SECURITY GUARD REGISTRATION**

(a) Each employer or his designee shall submit and sign an application form for the registration of each employee to the Board. This form shall be accompanied by:

- (1) ~~one set~~ two sets of classifiable fingerprints on an applicant fingerprint card;
- (2) two recent head and shoulders color photographs of the applicant of acceptable quality for identification, one inch by one inch in size;
- (3) ~~statements of any criminal record obtained~~ certified statement of the result of a criminal records search from the appropriate governmental authority housing criminal record information or clerk of superior court in each area where the applicant has resided within the immediate preceding 48 months;
- (4) the applicant's non-refundable registration fee; and
- (5) actual cost charged to the Private Protective Services Board by the State Bureau of Investigation to cover the cost of criminal record checks performed by the State Bureau of Investigation,

collected by the Private Protective Services Board.

(b) The employer of each applicant for registration shall give the applicant a copy of the application and shall retain a copy of the application in the individual's personnel file in the employers's office.

(c) The applicant's copy of the application shall serve as a temporary registration card which shall be carried by the applicant when he is within the scope of his employment and which shall be exhibited upon the request of any law enforcement officer or other authorized representative of the Board.

(d) A statement signed by a certified trainer that the applicant has successfully completed the training requirements of 12 NCAC 7D .0707 shall be submitted to the Administrator not later than 80 days from the hiring of an unarmed security guard.

(e) A copy of the statement specified in Paragraph (d) of this Rule shall be retained by the licensee in the individual applicant's personnel file in the employer's office.

*Authority 74C-5; 74C-11; 74C-13.*

## **SECTION .0800 - ARMED SECURITY GUARD FIREARM REGISTRATION PERMIT**

### **.0801 APPLICATION/ARMED SECURITY GUARD FIREARM REGISTRATION PERMIT**

(a) Each employer or his designee shall submit and sign an application form for the registration of each employee to the Board. This form shall be accompanied by:

- (1) ~~one set~~ two sets of classifiable fingerprints on an applicant fingerprint card;
- (2) two recent head and shoulders color photographs of the applicant of acceptable quality for identification, one inch by one inch in size;
- (3) ~~statements of any criminal record obtained~~ certified statement of the result of a criminal records search from the appropriate governmental authority housing criminal record information or clerk of superior court in each area where the applicant has resided within the immediate preceding 48 months;
- (4) the applicant's non-refundable registration fee; and
- (5) a statement signed by a certified trainer that the applicant has successfully completed the training requirements of 12 NCAC 7D .0807.

(b) The employer of each applicant for registration shall give the applicant a copy of the application and shall retain a copy of the application in the individual's personnel file in the employer's office.

(c) The applicant's copy of the application shall serve as a temporary registration card which shall be carried by the applicant when he is within the scope of his employment and which shall be exhibited upon the request of any law enforcement officer or other authorized representative of the Board.

(d) Applications submitted without firearms certificates shall not serve as temporary registration cards unless the

contract security company or proprietary security organization has obtained prior approval from the administrator and provides satisfactory proof that the applicant has received prior firearms training.

(e) The provisions of (a), (b), and (c) of this Rule shall also apply to any employee whose employment is terminated within 30 days of employment.

*Authority 74C-5; 74C-13.*

## **SECTION .0900 - FIREARMS TRAINER CERTIFICATE**

### **.0902 APPLICATION FOR FIREARMS TRAINER CERTIFICATE**

Each applicant for a firearms trainer certificate shall submit an original and one copy of the application to the Board. The application shall be accompanied by:

- (1) ~~one set~~ two sets of classifiable fingerprints on an applicant fingerprint card;
- (2) one recent head and shoulders color photograph of the applicant of acceptable quality for identification, one inch by one inch in size;
- (3) ~~statements~~ certified statement of the result of a ~~local~~ criminal history records search by the ~~city-county~~ identification bureau ~~appropriate~~ governmental authority housing criminal record information or clerk of superior court in each county where the applicant has resided within the immediate preceding 60 months;

- (4) actual cost charged to the Private Protective Services Board by the State Bureau of Investigation to cover the cost of criminal record checks performed by the State Bureau of Investigation, collected by the Private Protective Services Board;
- (5) the applicant's non-refundable registration fee; and
- (6) a certificate of successful completion of the training required by 12 NCAC 7D .0901(3) and (4). This training shall have been completed within 60 days of the submission of the application.

*Authority 74C-5; 74C-13.*

## **SECTION .1100 - TRAINING AND SUPERVISION FOR PRIVATE INVESTIGATOR ASSOCIATES**

### **.1106 TIME LIMITS ON EXPERIENCE**

- (a) The Board will consider any practical experience legally gained within 10 years of the application date.
- (b) The Board will consider any educational experience referred to in 12 NCAC 7D .1105.

*Authority 74C-5(2).*

\* \* \* \* \*

**N**otice is hereby given in accordance with G.S. 150B-21.2 that the NC Sheriffs' Education and Training Standards Commission intends to amend rules cited as 12 NCAC 10B .0101, .0107, .0202, .0204, .0206, .0304, .0505, .0601, .0603, .0605, .0702, .0707, .0801, .0802, .0903, .0908, .0911, .1002, .1004, .1006, .1101, .1105, .1202, .1204, .1206. Notice of Rule-making Proceedings was published in the Register on August 15, 1997.

**Proposed Effective Date:** August 1, 1998

**A Public Hearing** will be conducted at 8:30 a.m. on November 14, 1997 at the Sheraton Atlantic Beach, Salter Path Road, Atlantic Beach, NC 28512.

**Reason for Proposed Action:**

*12 NCAC 10B .0101 - This rule change is being made due to the Commission moving to a new building.*

*12 NCAC 10B .0107 - Numerical adjustment to the History Note regarding the General Statute number.*

*12 NCAC 10B .0202(4) and (5) - This rule change merely alters the wording to be consistent with other rules within the Commission's administrative code; and to make clear that the Probable Cause Committee of the Sheriffs' Commission, which has been formed in accordance with the Commission's bylaws, has the authority to determine the period of time appropriate for the sanction set out in paragraph (5).*

*12 NCAC 10B .0204(c)(1) and (2) - This rule change adds language to make it clear that any attempts by justice officers to cheat on their in-service firearms requirement is punishable by the Commission.*

*12 NCAC 10B .0204(d)(5) - This change merely clarifies that should the Class A misdemeanors all be dated outside the 2 year period, certification shall be issued.*

*12 NCAC 10B .0206(a)(4) and (5) - This rule change adds authority for the Director, on behalf of the Commission, to issue a summary denial in the event an applicant refuses to submit to the Commission-mandated drug screen; and to issue a summary*



suspension in the event a justice officer produces a positive drug screen.

**12 NCAC 10B .0304(a)** - This rule change alters the language of the rule to comply with the new medical forms adopted by the Commission.

**12 NCAC 10B .0505(a)** - This rule change requires a deputy sheriff be employed with a prior agency in order to be credited with the time served at that agency, and also be certified for that period of employment.

**12 NCAC 10B .0601(a)** - This changes the total number of hours of instruction for the Detention Officer Certification Course.

**12 NCAC 10B .0601(b)** - This change is being made to change one topic area, add another topic area, and increase the hours of the course.

**12 NCAC 10B .0601(f)** - This change requires the certified school director to adhere to the guide before, during, and after a course delivery.

**12 NCAC 10B .0603(a)** - This amendment requires a detention officer be employed with a prior agency in order to be credited with the time served at that agency, and also be certified for that period of employment.

**12 NCAC 10B .0605(d)** - This amendment would allow a trainee to participate in only one partial delivery of a course in order to make up a deficiency within 120 days, and allows the trainee to retest on a unit test only once during that partial enrollment.

**12 NCAC 10B .0702** - The Criminal Justice Standards Division has relocated, therefore, the rule change of deleting "1 West Morgan Street" was necessary in updating this particular rule.

**12 NCAC 10B .0703(b)** - This change would allow no more than two school directors to become certified per each accredited institution/agency. The rule also requires that the certified school director(s) be readily available at all times.

**12 NCAC 10B .0703(c)(3)** - This change would have the school director and the accredited institution/agency refer to the Detention Officer Course Management Guide to determine the proper facility, equipment, materials, and supplies needed for a course delivery.

**12 NCAC 10B .0703(c)(3)(D)** - The partial deletion of this rule is the removal of the block of instruction entitled "Unarmed Self-Defense". The additions to this rule are the standards needed for the delivery of the "Specialized Control Techniques" block of instruction.

**12 NCAC 10B .0703(c)(3)(E)** - This addition specifies the type of jail cell needed in performing the required block of instruction entitled "Contraband Searches".

**12 NCAC 10B .0703(c)(3)(F)** - This addition states the standards needed for delivery of the "Fire Emergencies in the Jail" block of instruction.

**12 NCAC 10B .0703(c)(3)(G)** - This addition states the standards needed for delivery of the "Physical Assessment" block of instruction.

**12 NCAC 10B .0703(c)(3)(H)** - This addition states the standards needed for delivery of the "First Aid and CPR" block of instruction.

**12 NCAC 10B .0703(c)(4)** - This addition is to allow an accredited institution/agency to make facility arrangements with another entity if the requirements cannot be met at their own facility.

**12 NCAC 10B .0704** - Changes occur in this rule for structural purposes; also the amendments to the rule are as follows:

**12 NCAC 10B .0704(a)(2)(C)** - This addition is to require the school director to schedule the required number of instructors for specific topic areas of the Detention Officer Certification Course.

**12 NCAC 10B .0704(a)(6)** - This change to the rule refers to the Detention Officer Certification Course Management Guide for reference to required materials, etc. needed for the delivery of a course.

**12 NCAC 10B .0704(b)** - This addition defines how the school director is to be available.

**12 NCAC 10B .0705(b)(3)** - This addition requires a school director to attend a school director's orientation prior to the delivery of a Detention Officer Certification Course.

**12 NCAC 10B .0706(b)(1) and (2) and (3)** - The rule changes are for structure; and paragraph (3) has been added to specify that the school director needs to comply with the accreditation requirements.

**12 NCAC 10B .0707** - The change authorizes the suspension, revocation or denial of a school director's certification when the school director has not complied with the terms and conditions in rule .0706.

**12 NCAC 10B .0801**

**12 NCAC 10B .0802 (b)(1)(2)(3); (c)(1)(2)(3)(4); (d)(1)(2); (e);(f);(g)(1)(2);(h)(1)(2)** - All additions to this section of the administrative code are in regard to the implementation of new accreditation standards.

**12 NCAC 10B .0903(c)** - This rule change requires all instructors to remain knowledgeable in their specific area of certification and to attend any curriculum updates.

**12 NCAC 10B .0908(a)(2)** - This rule change substitutes "Specialized Control Techniques" for "Unarmed Self-Defense" as the block of instruction.

**12 NCAC 10B .0908(b)** - This rule change would require all limited lecturer instructors to possess current valid CPR certification.

**12 NCAC 10B .0908(b)(2)** - This rule change is a deletion of language regarding "Unarmed Self-Defense" and is an addition of the requirements for the new block of instruction "Specialized Control Techniques".



- 12 NCAC 10B .0909(b)(4) - This rule change would require the instructor to continuously possess valid CPR certification for renewal purposes.*
- 12 NCAC 10B .0909(c)(4) - This rule change would require the instructor to continuously possess valid CPR certification for renewal purposes.*
- 12 NCAC 10B .0910 - This rule change restricts the use of guest participants from assisting in blocks of instruction which require limited lecturer certification.*
- 12 NCAC 10B .0911(c)(2) - This rule change authorizes the denial, suspension, or revocation of an instructor's certification for failing to attend and successfully complete any instructor training updates.*
- 12 NCAC 10B .1002(a)(1) - This rule change would not allow a justice officer that is subject to suspension or revocation proceedings to become eligible for a certificate program.*
- 12 NCAC 10B .1002(a)(3) - This rule change would require a justice officer to be a full- time deputy sheriff in order to apply for this certificate program.*
- 12 NCAC 10B .1002(b) - This rule change would require a justice officer to be a full- time deputy sheriff in order to apply for this certificate program*
- 12 NCAC 10B .1002(b)(1) - This change clarifies what is acceptable as an education point toward the professional certificate program for deputies.*
- 12 NCAC 10B .1002(b)(2) - This change clarifies what is acceptable as a training point toward the professional certificate program.*
- 12 NCAC 10B .1002(b)(3) - This change clarifies what type of experience is acceptable for the professional certificate program.*
- 12 NCAC 10B .1004(a) - This rule modification specifically spells out the types of degrees.*
- 12 NCAC 10B .1004(b) - This rule change specifies that correspondence or vocational courses shall not be credited toward education points.*
- 12 NCAC 10B .1005(a) - This rule modification specifically spells out the types of degrees.*
- 12 NCAC 10B .1005(b) - This rule change specifies that correspondence or vocational courses shall not be credited toward education points.*
- 12 NCAC 10B .1006(b) - This rule change clarifies what is acceptable as verification of education.*
- 12 NCAC 10B .1006(c) - This rule change clarifies what is acceptable as verification of training.*
- 12 NCAC 10B .1006(d) - This change clarifies the type of applicant's length of service that is acceptable for this program.*
- 12 NCAC 10B .1006(e) - This change is in structure only.*
- 12 NCAC 10B .1101- This rule change clarifies that the purpose of the service award program is to award service in North Carolina only.*
- 12 NCAC 10B .1102(a)(1) - This rule change would not allow a justice officer that is subject to suspension or revocation proceedings to become eligible for a service award.*
- 12 NCAC 10B .1102(b) - This rule change would require a justice officer to be a full time justice officer in order to apply for this service award program.*
- 12 NCAC 10B .1103 - The partial deletion of this rule is to eliminate repetitious information.*
- 12 NCAC 10B .1104 - The partial deletion of this rule is to eliminate repetitious information.*
- 12 NCAC 10B .1105(b) - This rule change specifically indicates the type of applicant's length of service that is acceptable for this program.*
- 12 NCAC 10B .1202(a)(1) - This rule change would require a detention officer to be full time in order to apply for this certificate program and would not allow a detention officer that is subject to suspension or revocation proceedings to become eligible for certificate program.*
- 12 NCAC 10B .1202(c)(1) - This rule change clarifies what is acceptable as an education point toward the professional certificate program for detention officers.*
- 12 NCAC 10B .1202(c)(2) - This rule change clarifies what is acceptable as training point toward the professional certificate program for detention officers.*
- 12 NCAC 10B .1202(c)(3) - This rule change specifically indicates the type of applicant's length of service that is acceptable for this program.*
- 12 NCAC 10B .1204(a) - This rule modification specifically spells out the types of degrees.*
- 12 NCAC 10B .1204(b) - This rule change specifies that correspondence or vocational courses shall not be credited toward education points.*
- 12 NCAC 10B .1205(a) - This rule modification specifically spells out the types of degrees.*
- 12 NCAC 10B .1205(b) - This rule change specifies that correspondence or vocational courses shall not be credited toward education points.*
- 12 NCAC 10B .1206(b) - This rule change clarifies what is acceptable as verification of education*
- 12 NCAC 10B .1206(c) - This rule change clarifies what is acceptable as verification of training.*
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*12 NCAC 10B .1206(d) - This rule change clarifies the type of applicant's length of service that is acceptable for this program.*

*12 NCAC 10B .1206(e) - This is simply a structure change.*

**Comment Procedures:** *Please contact Barbara D. Moore with any questions or comments concerning this information.*

*Barbara D. Moore*

*NC Sheriffs' Education and Training Standards Commission*

*PO Drawer 629*

*Raleigh, NC 27602*

**Fiscal Note:** *These Rules do not affect the expenditures or revenues of state or local government funds. These Rules do not have a substantial economic impact of at least five million dollars (\$5,000,000) in a 12-month period.*

## **CHAPTER 10 - N.C. SHERIFFS' EDUCATION AND TRAINING STANDARDS COMMISSION**

### **SUBCHAPTER 10B - N.C. SHERIFFS' EDUCATION AND TRAINING STANDARDS COMMISSION**

#### **SECTION .0100 - COMMISSION ORGANIZATION AND PROCEDURES**

##### **.0101 LOCATION**

The N.C. Sheriffs' Education and Training Standards Commission is established within the Department of Justice and is located in the ~~Raney Building, on the Fayetteville Street Mall~~ Sam I. Ervin, Jr. Justice Building at 114 Edenton Street in Raleigh, North Carolina. The mailing address is:

North Carolina Sheriffs' Education and Training Standards Commission

Post Office Box 629

Raleigh, North Carolina 27602

Telephone (919) ~~733-9236~~ 716-6460

*Authority G.S. 17E.*

##### **.0107 PROCEDURES FOR PETITIONS FOR DECLARATORY RULINGS**

(a) In addition to the procedures set out in G.S. ~~150B-17~~, 150B-4, Petitions for Declaratory Rulings shall be submitted to the Commission and shall contain:

- (1) petitioner's name, address and telephone number;
- (2) the statute(s), rule(s) or both to which the request relates;
- (3) all facts and information which are relevant to the request;
- (4) a concise statement of the manner in which petitioner has been aggrieved;
- (5) a draft of the Declaratory Ruling sought by petitioner (if specified outcome is sought by petitioner);
- (6) practices likely to be affected by the Declaratory Ruling;
- (7) a list or description of persons likely to be affected by the Declaratory Ruling; and
- (8) a statement as to whether the petitioner desires to present oral argument (not to exceed 30 minutes) to the Commission prior to its decision.

(b) The Commission shall ordinarily refuse to issue a Declaratory Ruling when:

- (1) the petition does not comply with Paragraph (a) of this Rule;
- (2) the Commission has previously issued a Declaratory Ruling on substantially similar facts;
- (3) the Commission has previously issued a Final Agency Decision in a contested case on substantially similar facts;
- (4) the facts underlying the request for a Declaratory Ruling were specifically considered at the time of the adoption of the rule in question; or
- (5) the subject matter of the request is involved in pending litigation.

*Authority G.S. 150B-4.*

#### **SECTION .0200 - ENFORCEMENT RULES**

##### **.0202 SANCTIONS FOR VIOLATIONS BY AGENCIES OR SCHOOLS**

If the Commission finds that a violation has been committed by an agency or school, the Commission may:

- (1) issue an oral warning and request for compliance;
- (2) issue a written warning and request for compliance;

- (3) issue an official written reprimand;
- (4) ~~suspend and refuse to grant~~ suspend, revoke, or deny accreditation to any school or program or course of instruction until proper corrective measures have been taken to bring the agency or school into compliance with these Rules and verification of such compliance has been made by the Commission; or
- (5) ~~suspend and refuse to grant~~ suspend, revoke, or deny accreditation to any school or program or course of instruction for a specific period of time to be determined by the Commission's Probable Cause Committee; however, not to exceed one year.

*Authority G.S. 17E-4.*

**.0204 SUSPENSION: REVOCATION: OR DENIAL OF CERTIFICATION**

(a) The Commission shall revoke or deny the certification of a justice officer when the Commission finds that the applicant for certification or the certified officer has committed or been convicted of:

- (1) a felony; or
- (2) a crime for which the authorized punishment could have been imprisonment for more than two years.

(b) The Commission shall revoke, deny, or suspend the certification of a justice officer when the Commission finds that the applicant for certification or the certified officer:

- (1) has not enrolled in and satisfactorily completed the required basic training course in its entirety within a time period specified by the Commission; or
- (2) fails to meet or maintain any of the minimum employment or certification standards required by 12 NCAC 10B .0300; or
- (3) fails to satisfactorily complete the minimum in-service training requirements as presented in 12 NCAC 10B .2000 and .2100; or
- (4) has refused to submit to the drug screen as required in 12 NCAC 10B .0301(6) or .0406(b)(4) or in connection with an application for or certification as a justice officer or a criminal justice officer as defined in 12 NCAC 9A .0103(6); or
- (5) has produced a positive result on any drug screen reported to the Commission as specified in 12 NCAC 10B .0410 or reported to any commission, agency, or board established to certify, pursuant to said commission, agency, or boards' standards, a person as a justice officer or a criminal justice officer as defined in 12 NCAC 9A .0103(6), unless the positive result is explained to the Commission's satisfaction.

(c) The Commission may revoke, deny, or suspend the certification of a justice officer when the Commission finds that the applicant for certification or certified justice officer:

- (1) has knowingly made a material misrepresentation of any information required for certification or accreditation from the Commission or the North Carolina Criminal Justice Education and Training Standards ~~Commission; Commission.~~ This Rule shall also apply to obtaining or attempting to obtain in-service firearms requalification as required by 12 NCAC 10B .2000 and .2100; or
- (2) has knowingly and designedly by any means of false pretense, deception, fraud, misrepresentation or cheating whatsoever, obtained or attempted to obtain credit, training or certification from the Commission or the North Carolina Criminal Justice Education and Training Standards ~~Commission; Commission.~~ This Rule shall also apply to obtaining or attempting to obtain in-service firearms requalification as required by 12 NCAC 10B .2000 and .2100; or
- (3) has knowingly and designedly by any means of false pretense, deception, fraud, misrepresentation or cheating whatsoever, aided another in obtaining or attempting to obtain credit, training, or certification from the Commission or the North Carolina Criminal Justice Education and Training Standards Commission. This Rule shall also apply to obtaining or attempting to obtain in-service firearms requalification as required by 12 NCAC 10B .2000 and .2100; or
- (4) has been removed from office by decree of the Superior Court in accordance with the provisions of G.S. 128-16 or has been removed from office by sentence of the court in accord with the provisions of G.S. 14-230; or
- (5) has been denied certification or had such certification suspended or revoked by the North Carolina Criminal Justice Education and Training Standards Commission.

(d) The Commission may revoke, suspend or deny the certification of a justice officer when the Commission finds that the applicant for certification or the certified officer has committed or been convicted of:

- (1) a crime or unlawful act defined in 12 NCAC 10B .0103(10)(b) as a Class B misdemeanor and which occurred after the date of initial certification; or
- (2) a crime or unlawful act defined in 12 NCAC 10B .0103(10)(b) as a Class B misdemeanor within the five-year period prior to the date of appointment; or
- (3) four or more crimes or unlawful acts defined in 12 NCAC 10B .0103(10)(b) as Class B misdemeanors regardless of the date of commission or conviction; or

- (4) four or more crimes or unlawful acts defined in 12 NCAC 10B .0103(10)(a) as a Class A misdemeanor, each of which occurred after the date of initial certification; or
  - (5) four or more crimes or unlawful acts defined in 12 NCAC 10B .0103(10)(a) as a Class A misdemeanor except the applicant may shall be certified if the last conviction or commission occurred more than two years prior to the date of appointment; or
  - (6) any combination of four or more crimes or unlawful acts defined in 12 NCAC 10B .0103(10)(a) as a Class A misdemeanor or defined in 12 NCAC 10B .0103(10)(b) as a Class B misdemeanor regardless of the date of commission or conviction.
- (e) Without limiting the application of G.S. 17E, a person who has had his certification suspended or revoked may not exercise the authority or perform the duties of a justice officer during the period of suspension or revocation.
- (f) Without limiting the application of G.S. 17E, a person who has been denied certification may not be employed or appointed as a justice officer or exercise the authority or perform the duties of a justice officer.

*Authority G.S. 17E-7.*

#### **.0206 SUMMARY SUSPENSIONS: OR DENIALS**

(a) The Commission may summarily suspend or deny the certification of a justice officer or instructor when, in the opinion of the Commission, the public health, safety, or welfare requires this emergency action of summary suspension or denial. The Commission has determined that the following conditions specifically affect the public health, safety, or welfare and therefore it, by and through the Director, shall utilize summary suspension or denial following a full investigation of the matter when:

- (1) the applicant for certification or the certified justice officer has committed or been convicted of a violation of the criminal code which would require a permanent revocation or denial of certification; or
- (2) the justice officer has failed to comply with the training requirements of 12 NCAC 10B .0500 and .0600; or
- (3) the certified justice officer fails to satisfactorily complete the minimum in-service training requirements as prescribed in 12 NCAC 10B ~~.2100~~ .2100; or
- (4) the applicant for certification has refused to submit to the drug screen as required in 12 NCAC 10B .0301(6) or .0406(c)(3) or in connection with an application for or certification as a justice officer or a criminal justice officer as defined in 12 NCAC 9A .0103(6); or
- (5) the applicant for certification or the certified officer has produced a positive result on any drug screen reported to the Commission as specified in 12 NCAC 10B .0410 or reported to any commission, agency, or board established to certify, pursuant to said commission, agency, or boards' standards, a person as a justice officer or a criminal justice officer as defined in 12 NCAC 9A .0103(6), unless the positive result is explained to the Commission's satisfaction.

(b) Without limiting the application of Chapter 17E of the General Statutes of North Carolina, a person who has had his or her certification summarily suspended or denied may not exercise the authority or perform the duties of a justice officer during the period of suspension or denial.

*Authority G.S. 17E-8; 17E-9; 150B-3(c).*

### **SECTION .0300 - MINIMUM STANDARDS FOR EMPLOYMENT AND CERTIFICATION AS A JUSTICE OFFICER**

#### **.0304 MEDICAL EXAMINATION**

(a) Each applicant shall ~~complete complete, sign and date~~ the Commission's Medical History Statement Form (F-1) and shall be examined by a physician or surgeon licensed in North Carolina to help determine his/her fitness in carrying out the physical requirements of the position of ~~deputy sheriff or detention officer; justice officer~~. ~~The examining physician shall read and sign the F-2A form attached to the Medical Examination Report Form (F-2) prior to beginning the examination. The examining physician shall record the results of the examination on the Medical Examination Report Form (F-2) and sign and date the form. The F-2 form shall be valid one year from the date the Medical Examination was completed and signed by the physician. The physical examination shall be conducted and the Medical Examination Report Form (F-2) and the Medical History Statement Form (F-1) shall be completed prior to whichever of the following occurs first:~~

- (1) ~~the applicant's beginning the Detention Officer Certification Course or the Basic Law Enforcement Training Course;~~  
or
- (2) ~~the applicant's applying to the Commission for certification.~~

(b) Prior to conducting the examination, the physician shall:

- (1) read the "Medical Screening Guidelines Implementation Manual for Certification of Justice Officers" in the State of North Carolina as published by the North Carolina Department of Justice. Copies of this publication may be obtained at no cost at the time of the adoption of this Rule by contacting the North Carolina Department of Justice, Sheriffs'

- Standards Division, PO Box 629, Raleigh, NC 27602; and
- (2) read, sign, and date the Medical History Statement Form (F-1); and
  - (3) read the F-2A Form attached to the Medical Examination Report Form (F-2).
- (c) The examining physician shall record the results of the examination on the Medical Examination Report Form (F-2) and sign and date the form.
- (d) The Medical Examination Report Form (F-2) and the Medical History Statement Form (F-1) shall be valid one year from the date the examination was conducted and shall be completed prior to whichever of the following occurs first:
- (1) the applicant's beginning the Detention Officer Certification Course, the Basic Law Enforcement Training Course, or the Telecommunicator Certification Course; or
  - (2) the applicant's applying to the Commission for certification.
- (b) (e) Although not presently required by these Rules, it is recommended by the Commission that each candidate for the position of justice officer be examined by a licensed psychiatrist or clinical psychologist, or be administered a psychological evaluation test battery, to determine his/her suitability to perform the essential job functions of a justice officer.

Authority G.S. 17E-7.

## SECTION .0500 - MINIMUM STANDARDS OF TRAINING FOR DEPUTY SHERIFFS

### **.0505 EVALUATION FOR TRAINING WAIVER**

(a) The Division staff shall evaluate each deputy's training and experience to determine if equivalent training has been satisfactorily completed as specified in 12 NCAC 10B .0504(a). Applicants for certification with prior law enforcement experience shall have been employed and certified in a sworn law enforcement position in order to be considered for training evaluation under this Rule. The following rules shall be used by Division staff in evaluating a deputy's training and experience to determine eligibility for a waiver of training.

- (1) Persons who separated from a sworn law enforcement position during their probationary period after having completed a commission-accredited Basic Law Enforcement Training Course and who have been separated from a sworn law enforcement position for one year or less shall serve the remainder of the initial probationary period in accordance with G.S. 17E-7(b), but need not complete an additional training program.
- (2) Persons who separated from a sworn law enforcement position during their probationary period without having completed Basic Law Enforcement Training, or whose certification was suspended pursuant to 12 NCAC 10B .0204(b)(1), and who have remained separated or suspended for over one year shall complete a commission-accredited Basic Law Enforcement Training Course in its entirety and successfully pass the State Comprehensive Examination, and shall be allowed a 12 month probationary period as prescribed in 12 NCAC 10B .0503(a).
- (3) Out-of-state transferees shall be evaluated to determine the amount and quality of their training and experience. Out-of-state transferees:
  - (A) shall have a minimum of two years full-time sworn law enforcement experience;
  - (B) shall not have a break in service exceeding two years; and
  - (C) shall have successfully completed the Basic Law Enforcement Training Course accredited by the state from which he/she is transferring. Out-of-state transferees meeting these requirements shall successfully complete a commission-accredited Basic Law Enforcement Training Course which includes the following topics of North Carolina law and procedure and successfully pass the State Comprehensive Examination in its entirety within the 12 month probationary period as prescribed in 12 NCAC 10B .0503(a).
 

(i) Laws of Arrest, Search and Seizure	16 hours
(ii) Elements of Criminal Law	24 hours
(iii) Juvenile Laws and Procedures	8 hours
(iv) Controlled Substances	6 hours
(v) ABC Laws and Procedures	4 hours
(vi) Motor Vehicle Laws	20 hours
(vii) Civil Process	24 hours
(viii) Supplemental Custody Procedures	8 hours

#### **TOTAL HOURS**

110 hours

- (4) Persons previously holding Grandfather law enforcement certification in accordance with G.S. 17C-10(a) or G.S. 17E-7(a) who have been separated from a sworn law enforcement position for more than one year and who have not previously completed a minimum Basic Law Enforcement Training Course accredited by the North Carolina Criminal Justice Education and Training Standards Commission or the North Carolina Sheriffs' Education and Training

Standards Commission shall be required to complete a commission-accredited Basic Law Enforcement Training Course in its entirety and successfully pass the State Comprehensive Examination within the 12 month probationary period as prescribed in 12 NCAC 10B .0503(a).

- (5) Persons who have completed a minimum 160-hour Basic Law Enforcement Training Course accredited by the North Carolina Criminal Justice Training and Standards Council under guidelines administered beginning on July 1, 1973 and continuing through September 30, 1978 and who have been separated from a sworn law enforcement position for more than one year but no more than two years shall be required to complete the following portions of a commission-accredited Basic Law Enforcement Training Course and successfully pass the State Comprehensive Examination within the 12 month probationary period as prescribed in 12 NCAC 10B .0503(a).

(A) Juvenile Law and Procedures	8 hours
(B) Laws of Arrest, Search and Seizure	16 hours
(C) Elements of Criminal Law	24 hours
(D) Controlled Substances	6 hours
(E) ABC Laws and Procedures	4 hours
(F) Motor Vehicle Laws	20 hours
(G) Law Enforcement Driver Training	16 hours
(H) Civil Process	24 hours
(I) Supplemental Custody Procedures	8 hours

**TOTAL HOURS**

126 hours

- (6) Persons who have completed a minimum 160-hour Basic Law Enforcement Training Course accredited by the North Carolina Criminal Justice Training and Standards Council under guidelines administered beginning on July 1, 1973 and continuing through September 30, 1978 and who have been separated from a sworn law enforcement position for more than two years shall be required to complete a commission-accredited Basic Law Enforcement Training Course in its entirety regardless of training and experience and successfully pass the State Comprehensive Examination within the 12 month probationary period as prescribed in 12 NCAC 10B .0503(a).

- (7) Persons who have completed a minimum 240-hour Basic Law Enforcement Training Course accredited by the North Carolina Criminal Justice Education and Training Standards Commission and the North Carolina Sheriffs' Education and Training Standards Commission under guidelines administered beginning October 1, 1978 and continuing through September 30, 1984 and who have been separated from a sworn law enforcement position for over one year but no more than three years shall be required to complete the following portions of a commission-accredited Basic Law Enforcement Training Course and successfully pass the State Comprehensive Examination within the 12 month probationary period as prescribed in 12 NCAC 10B .0503(a).

(A) Laws of Arrest, Search and Seizure	16 hours
(B) Elements of Criminal Law	24 hours
(C) Juvenile Laws and Procedures	8 hours
(D) Controlled Substances	6 hours
(E) ABC Laws and Procedures	4 hours
(F) Motor Vehicle Laws	20 hours
(G) Civil Process	24 hours
(H) Supplemental Custody Procedures	8 hours

**TOTAL HOURS**

110 hours

- (8) Persons who have completed a minimum 240-hour Basic Law Enforcement Training Course accredited by the North Carolina Criminal Justice Education and Training Standards Commission and the North Carolina Sheriffs' Education and Training Standards Commission under guidelines administered beginning October 1, 1978 and continuing through September 30, 1984 and who have been separated from a sworn law enforcement position for more than three years shall be required to complete a commission-accredited Basic Law Enforcement Training Course in its entirety regardless of prior training and experience and successfully pass the State Comprehensive Examination within the 12 month probationary period as prescribed in 12 NCAC 10B .0503(a).

- (9) Persons who have completed a minimum 381 hour Basic Law Enforcement Training Course accredited by the North Carolina Sheriffs' Education and Training Standards Commission under guidelines administered beginning October 1, 1984 and ending December 31, 1988 and who have been separated from a sworn law enforcement position for over one year but no more than three years shall be required to complete the following portions of a commission-accredited Basic Law Enforcement Training Course and successfully pass the State Comprehensive Examination within the 12 month probationary period as prescribed in 12 NCAC 10B .0503(a).

(A) Laws of Arrest, Search and Seizure	16 hours
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(B)	Elements of Criminal Law	24 hours
(C)	Juvenile Laws and Procedures	8 hours
(D)	Controlled Substances	6 hours
(E)	ABC Laws and Procedures	4 hours
(F)	Motor Vehicle Laws	20 hours
(G)	Civil Process	24 hours
(H)	Supplemental Custody Procedures	8 hours

<b>TOTAL HOURS</b>	<b>110 hours</b>
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- (10) Persons transferring to a sheriff's department from another law enforcement agency who hold certification issued by the North Carolina Criminal Justice Education and Training Standards Commission and who have previously completed a commission-accredited Basic Law Enforcement Training Course beginning on or after October 1, 1984 and who have been separated from a sworn law enforcement position for no more than one year or who have had no break in service shall be required to complete the following enumerated topics of a commission-accredited Basic Law Enforcement Training Course and successfully pass that portion of the State Comprehensive Examination which deals with those subjects within 12 months of the date of appointment as defined in 12 NCAC 10B .0103(1).

(A)	Civil Process	24 hours
(B)	Supplemental Custody Procedures	8 hours

<b>TOTAL HOURS</b>	<b>32 hours</b>
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- (11) Persons who have completed a minimum 369-hour Basic Law Enforcement Training Course accredited by the North Carolina Criminal Justice Education and Training Commission under guidelines beginning October 1, 1984 and ending July 1, 1989 and who have been separated from a sworn law enforcement position for over one year but no more than three years shall be required to complete the following portions of a commission-accredited Basic Law Enforcement Training Course and successfully pass the State Comprehensive Examination within the 12 month probationary period as prescribed in 12 NCAC 10B .0503(a).

(A)	Laws of Arrest, Search and Seizure	16 hours
(B)	Elements of Criminal Law	24 hours
(C)	Juvenile Laws and Procedures	8 hours
(D)	Controlled Substances	6 hours
(E)	ABC Laws and Procedures	4 hours
(F)	Motor Vehicle Laws	20 hours
(G)	Civil Process	24 hours
(H)	Supplemental Custody Procedures	8 hours

<b>TOTAL HOURS</b>	<b>110 hours</b>
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- (12) Persons who have completed a minimum 422-hour Basic Law Enforcement Training Course accredited by the North Carolina Sheriff's Education and Training Standards Commission under the guidelines administered beginning January 1, 1989 and ending February 1, 1991 and who have been separated from a sworn law enforcement position for over one year but no more than three years shall be required to complete the following portions of a commission-accredited Basic Law Enforcement Training Course and successfully pass the State Comprehensive Examination within the 12 month probationary period as prescribed in 12 NCAC 10B .0503(a).

(A)	Laws of Arrest, Search and Seizure	16 hours
(B)	Elements of Criminal Law	24 hours
(C)	Juvenile Laws and Procedures	8 hours
(D)	Controlled Substances	6 hours
(E)	ABC Laws and Procedures	4 hours
(F)	Motor Vehicle Laws	20 hours
(G)	Civil Process	24 hours
(H)	Supplemental Custody Procedures	8 hours

<b>TOTAL HOURS</b>	<b>110 hours</b>
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- (13) Persons who have previously completed a minimum 410-hour Basic Law Enforcement Training Course accredited by the North Carolina Criminal Justice Education and Training Standards Commission under guidelines administered beginning July 1, 1989 and ending February 1, 1991 and who have been separated from a sworn law enforcement position for over one year but no more than three years shall be required to complete the following portions of a

commission-accredited Basic Law Enforcement Training Course and successfully pass the State Comprehensive Examination within the 12 month probationary period as prescribed in 12 NCAC 10B .0503(a).

(A) Laws of Arrest, Search and Seizure	16 hours
(B) Elements of Criminal Law	24 hours
(C) Juvenile Laws and Procedures	8 hours
(D) Controlled Substances	6 hours
(E) ABC Laws and Procedures	4 hours
(F) Motor Vehicle Laws	20 hours
(G) Civil Process	24 hours
(H) Supplemental Custody Procedures	8 hours

TOTAL HOURS 110 hours

- (14) Persons who have completed a minimum 444-hour Basic Law Enforcement Training Course accredited by the North Carolina Sheriffs' Education and Training Standards Commission under the guidelines administered beginning February 1, 1991 and ending January 1, 1996 and who have been separated from a sworn law enforcement position for over one year but no more than three years shall be required to complete the following portions of a commission-accredited Basic Law Enforcement Training Course and successfully pass the State Comprehensive Examination within the 12 month probationary period as prescribed in 12 NCAC 10B .0503(a).

(A) Laws of Arrest, Search and Seizure	16 hours
(B) Elements of Criminal Law	24 hours
(C) Juvenile Laws and Procedures	8 hours
(D) Controlled Substances	6 hours
(E) ABC Laws and Procedures	4 hours
(F) Motor Vehicle Laws	20 hours
(G) Civil Process	24 hours
(H) Supplemental Custody Procedures	8 hours

TOTAL HOURS 110 hours

- (15) Persons who have previously completed a minimum 432-hour Basic Law Enforcement Training Course accredited by the North Carolina Criminal Justice Education and Training Standards Commission under guidelines administered beginning February 1, 1991 and who have been separated from a sworn law enforcement position for over one year but no more than three years shall be required to complete the following portions of a commission-accredited Basic Law Enforcement Training Course and successfully pass the State Comprehensive Examination within the 12 month probationary period as prescribed in 12 NCAC 10B .0503(a).

(A) Laws of Arrest, Search and Seizure	16 hours
(B) Elements of Criminal Law	24 hours
(C) Juvenile Laws and Procedures	8 hours
(D) Controlled Substances	6 hours
(E) ABC Laws and Procedures	4 hours
(F) Motor Vehicle Laws	20 hours
(G) Civil Process	24 hours
(H) Supplemental Custody Procedures	8 hours

TOTAL HOURS 110 hours

- (16) Persons who have completed training as a federal law enforcement officer and are appointed as a deputy sheriff in North Carolina shall be required to complete a commission-accredited Basic Law Enforcement Training Course in its entirety regardless of previous federal training and experience and successfully pass the State Comprehensive Examination within the 12 month probationary period as prescribed in 12 NCAC 10B .0503(a).
- (17) Persons out of the law enforcement profession for over three years regardless of prior training or experience shall complete a commission-accredited Basic Law Enforcement Training Course in its entirety and successfully pass the State Comprehensive Examination within the 12 month probationary period as prescribed in 12 NCAC 10B .0503(a).
- (18) Wildlife Enforcement Officers who completed the Basic Law Enforcement Training Course prior to September 30, 1985 and are sworn as justice officers shall be subject to the evaluation rules as stated in 12 NCAC 10B .0505(a)(1) and (a)(4) through (11).
- (19) Wildlife Enforcement Officers who separate from employment with the Wildlife Enforcement Division and have less than one year break in service, who transfer to a Sheriff's Department in a sworn capacity, and who completed their Basic Training after September 30, 1985 shall complete the following blocs of instruction and pass the state exam in



its entirety within the 12 month probationary period as prescribed in 12 NCAC 10B .0503(a).

(A) Crime Prevention Techniques	4 hours
(B) Mechanics of Arrest: Custody Procedure	2 hours
(C) Mechanics of Arrest: Processing Arrestee	4 hours
(D) Special Populations	12 hours
(E) Techniques of Traffic Law Enforcement	6 hours
(F) Dealing with Victims and the Public	8 hours
(G) Civil Process	24 hours
(H) Supplemental Custody Procedures	8 hours

**TOTAL HOURS**

68 hours

- (20) Wildlife Enforcement Officers who completed Basic Law Enforcement Training on or after September 30, 1985 and have been out of a sworn position over one year but no more than three years, and are sworn as a justice officer must complete the following blocs of instructions and pass the state exam in its entirety during their probationary period as prescribed in 12 NCAC 10B .0503 (a).

(A) Laws of Arrest Search and Seizure	16 hours
(B) Elements of Criminal Law	24 hours
(C) Juvenile Laws and Procedures	8 hours
(D) Controlled Substances	6 hours
(E) ABC Laws and Procedures	4 hours
(F) Motor Vehicle Laws	20 hours
(G) Crime Prevention Techniques	4 hours
(H) Mechanics of Arrest: Custody Procedures	2 hours
(I) Mechanics of Arrest: Processing Arrestees	4 hours
(J) Special Populations	12 hours
(K) Techniques of Traffic Law Enforcement	6 hours
(L) Dealing with Victims and the Public	8 hours
(M) Civil Process	24 hours
(N) Supplemental Custody Procedures	8 hours

**TOTAL HOURS**

146 hours

- (21) Alcohol Law Enforcement Officers who completed the Basic Law Enforcement Training Course prior to April 1, 1983 or after November 1, 1993, and are sworn as a justice officer shall be subject to the evaluation rules as prescribed in 12 NCAC 10B .0505(a)(3) through (8) and (a)(14), (15) and (24).

- (22) Alcohol Law Enforcement Officers who separate from employment with the Alcohol Law Enforcement Division and have less than a one year break in service, who transfer to a Sheriff's Department in a sworn capacity, and who completed their Basic Training administered beginning April 1, 1983 and ending November 1, 1993 shall complete the following blocs of instruction and pass the state comprehensive exam in its entirety within the 12 month probationary period as prescribed in 12 NCAC 10B .0503(a).

(A) Law Enforcement Communication and Information Systems	4 hours
(B) Patrol Techniques	16 hours
(C) Crime Prevention Techniques	4 hours
(D) Mechanics of Arrest: Vehicle Stops	6 hours
(E) Mechanics of Arrest: Custody Procedures	2 hours
(F) Mechanics of Arrest: Processing Arrestee	4 hours
(G) Special Populations	12 hours
(H) Interviews: Field and In-Custody	8 hours
(I) Motor Vehicle Law	20 hours
(J) Techniques of Traffic Law Enforcement	6 hours
(K) Dealing with Victims and the Public	8 hours
(L) Civil Process	24 hours
(M) Supplemental Custody Procedures	8 hours

**TOTAL HOURS**

122 hours

- (23) Alcohol Law Enforcement Officers who completed their Basic Training administered beginning April 1, 1983 and ending November 1, 1993 and are sworn as a justice officer and who have been out of a sworn position for over one

year but no more than three years shall complete the following blocs of instruction and pass the state examination in its entirety during their one year probationary period as prescribed in 12 NCAC 10B .0503(a).

(A) Laws of Arrest, Search and Seizure	16 hours
(B) Elements of Criminal Law	24 hours
(C) Juvenile Laws and Procedures	8 hours
(D) Controlled Substances	6 hours
(E) ABC Laws and Procedures	4 hours
(F) Law Enforcement Communication and Information Systems	4 hours
(G) Patrol Techniques	16 hours
(H) Crime Prevention Techniques	4 hours
(I) Mechanics of Arrest: Vehicle Stops	6 hours
(J) Mechanics of Arrest: Custody Procedures	2 hours
(K) Mechanics of Arrest: Processing Arrestee	4 hours
(L) Special Populations	12 hours
(M) Interviews: Field and In-Custody	8 hours
(N) Motor Vehicle Law	20 hours
(O) Techniques of Traffic Law Enforcement	6 hours
(P) Dealing with Victims and the Public	8 hours
(Q) Civil Process	24 hours
(R) Supplemental Custody Procedures	8 hours

**TOTAL HOURS** 180 hours

- (24) Persons who have previously completed a minimum 472-hour Basic Law Enforcement Training Course accredited by the North Carolina Sheriffs' Education and Training Standards Commission, under the guidelines administered beginning January 1, 1996 and who have been separated from a sworn law enforcement position for over one year but no more than three years shall be required to complete the following portions of a commission-accredited Basic Law Enforcement Training Course and successfully pass the State Comprehensive Examination with the 12 month probationary period as prescribed in 12 NCAC 10B .0503(a).

(A) Laws of Arrest, Search and Seizure	16 hours
(B) Elements of Criminal Law	24 hours
(C) Juvenile Laws and Procedures	8 hours
(D) Controlled Substances	6 hours
(E) ABC Laws and Procedures	4 hours
(F) Motor Vehicle Laws	20 hours
(G) Civil Process	24 hours
(H) Supplemental Custody Procedures	8 hours

**TOTAL HOURS** 110 hours

(b) In those instances not specifically incorporated within this Section or where an evaluation of the applicant's prior training and experience determines that required attendance in the entire Basic Law Enforcement Training Course would be impractical, the director is authorized to exercise his/her discretion in determining the amount of training those persons shall complete during their probationary period.

*Authority G.S. 17E-4; 17E-7.*

## **SECTION .0600 - MINIMUM STANDARDS OF TRAINING FOR DETENTION OFFICERS**

### **.0601 DETENTION OFFICER CERTIFICATION COURSE**

(a) This Section establishes the current standard by which Sheriffs' Department and district confinement personnel shall receive detention officer training. These Rules will serve to raise the level of detention officer training heretofore available to law enforcement officers across the state. The Detention Officer Certification Course shall consist of a minimum of ~~140~~ 146 hours of instruction designed to provide the trainee with the skills and knowledge necessary to perform those tasks considered essential to the administration and operation of a confinement facility.

(b) Each Detention Officer Certification Course shall include the following identified topic areas and approximate minimum instructional hours for each area:

(1) Orientation	2 hours
(2) Criminal Justice System	3 hours

(3)	Legal Aspects of Management & Supervision	19 hours
(4)	Contraband/Searches	6 hours
(5)	Processing Inmates	5 hours
(6)	First Aid & CPR	10 hours
(7)	Medical Care in the Jail	5 hours
(8)	Patrol & Security Functions of the Jail	5 hours
(9)	Key and Tool Control	2 hours
(10)	Supervision & Management of Inmates	5 hours
(11)	Suicides & Crisis Management	5 hours
(12)	Introduction to Rules & Regulations Governing Jails	2 hours
(13)	Stress	2 hours
(14)	Investigative Process in the Jail	9 hours
(15)	<del>Unarmed Self-Defense</del> <u>Specialized Control Techniques</u>	24 hours
(16)	Special Populations	4 hours
(17)	Transportation of Inmates	6 hours
(18)	Fire Emergencies	12 hours
(19)	<u>Fingerprinting and Photographing Arrestees</u>	6 hours
<del>(19)</del>	<del>(20)</del> Physical Assessment	4 hours
<del>(20)</del>	<del>(21)</del> Review/Testing	7 hours
<del>(21)</del>	<del>(22)</del> State Comprehensive Examination	3 hours

**TOTAL HOURS**

~~140~~ **146** hours

(c) In addition to the requirements of Paragraph (b) of this Rule, the reading component of a standardized test shall be administered to each trainee within the first two weeks of the Detention Officer Certification Course, and the reading grade level reported as a part of the trainee's official training records. The school director shall determine the test instrument to be used.

(d) Consistent with the curriculum development policy of the Commission, the Commission shall designate the developer of the Detention Officer Certification Course curricula and such designation shall be deemed by the Commission as approval for the developer to conduct pilot Detention Officer Certification Courses. Individuals who successfully complete such a pilot Detention Officer Certification Course offering shall be deemed to have successfully complied with and satisfied the minimum training requirement.

(e) The "Detention Officer Certification Training Manual" as published by the North Carolina Justice Academy is hereby incorporated by reference and shall automatically include any later amendments and editions of the incorporated matter to apply as the basic curriculum for the Detention Officer Certification Course. Copies of this manual may be obtained by contacting the North Carolina Justice Academy, Post Office Box 99, Salemburg, North Carolina 28385-0099. The cost of this manual is forty dollars (\$40.00) at the time of adoption of this Rule.

(f) The "Detention Officer Certification Course Management Guide" as published by the North Carolina Justice Academy is hereby incorporated by reference and shall automatically include any later amendments, editions of the incorporated matter to be used by certified school directors in planning, implementing and delivering basic detention officer training. The standards and requirements established by the "Detention Officer Certification Course Management Guide" must be adhered to by the certified school director. Each certified school director shall be issued a copy of the guide at the time of certification at no cost to the accredited school.

*Authority G.S. 17E-4(a).*

**.0603 EVALUATION FOR TRAINING WAIVER**

(a) Applicants for certification with prior detention or correctional officer experience shall have been employed and certified as a detention or correctional officer in order to be considered for a training evaluation under this Rule. The following rules shall be used by division staff in evaluating a detention officer's training and experience to determine eligibility for a waiver of training:

- (1) Persons who have separated from a detention officer position during the probationary period after having completed a commission-accredited detention officer training course and who have been separated from a detention officer position for more than one year shall complete a subsequent commission-accredited detention officer training course in its entirety and successfully pass the State Comprehensive Examination within the 12 month probationary period as described in 12 NCAC 10B .0602(a).
- (2) Persons who separated from a detention officer position during their probationary period after having completed a commission-accredited detention officer training course and who have been separated from a detention officer position

for one year or less shall serve the remainder of the initial probationary period in accordance with G.S. 17E-7(b), but need not complete an additional training program.

- (3) Persons who separated from a detention officer position during the probationary period without having completed a detention officer training course or whose certification was suspended pursuant to 12 NCAC 10B .0204(b)(1) and who have remained separated or suspended for over one year shall complete a commission-accredited detention officer training course in its entirety and successfully pass the State Comprehensive Examination, and shall be allowed a 12 month probationary period as prescribed in 12 NCAC 10B .0602(a).
- (4) Persons holding General Detention Officer Certification who have completed a commission-accredited detention officer training course and who have separated from a detention officer position for more than one year shall complete a subsequent commission-accredited detention officer training course in its entirety and successfully pass the State Comprehensive Examination within the 12 month probationary period as prescribed in 12 NCAC 10B .0602(a).
- (5) Persons holding Grandfather Detention Officer Certification who separate from a detention officer position and remain separated from a detention officer position for more than one year shall be required to complete a commission-accredited detention officer training program in its entirety and successfully pass the State Comprehensive Examination within the 12 month probationary period as prescribed in 12 NCAC 10B .0602(a).
- (6) Persons transferring to a sheriff's department from another law enforcement agency who hold a detention officer certification issued by the North Carolina Criminal Justice Education and Training Standards Commission shall be subject to evaluation of their prior training and experience on an individual basis. The Division staff shall determine the amount of training required of these applicants.
- (7) Persons holding general certification as a correctional officer issued by the North Carolina Criminal Justice Education and Training Standards Commission and who:
  - (A) completed training as a correctional officer after January 1, 1981; and
  - (B) transfer to a sheriff's department or a district confinement facility in a detention officer position; and
  - (C) have had less than a one year break in service, or no break in service, shall serve a 12-month probationary period as prescribed in 12 NCAC 10B .0602(a) and shall complete the following topic areas in a commission-accredited detention officer certification course and take the state examination in its entirety during that probationary period:
 

(i) Orientation	2 hours
(ii) Legal Aspects of Jail Management & Supervision	19 hours
(iii) Medical Care in the Jail	5 hours
(iv) Investigative Process in the Jail	9 hours
(v) Suicides and Crisis Management	5 hours
(vi) Introduction to Rules and Regulations Governing Jail Facilities	2 hours
(vii) Fire Emergencies in the Jail	12 hours

**TOTAL HOURS**

54 hours

(b) In those instances not specifically incorporated within this Section or where an evaluation of the applicant's prior training and experience determines that required attendance in the entire Detention Officer Training Course would be impractical, the director is authorized to exercise his/her discretion in determining the amount of training those persons shall complete during their probationary period.

*Authority G.S. 17E-4; 17E-7.*

**.0605 COMPLETION OF DETENTION OFFICER CERTIFICATION COURSE**

(a) Each delivery of an accredited "Detention Officer Certification Course" is considered to be a unit as set forth in 12 NCAC 10B .0601. Each trainee shall attend and satisfactorily complete a full course during a scheduled delivery. The school director may develop supplemental rules as set forth in 12 NCAC 10B .0704(a)(7), but may not add substantive courses, or change or expand the substance of the courses set forth in 12 NCAC 10B .0601. This Rule does not prevent the instruction on local agency rules or standards but such instruction shall not be considered or endorsed by the Commission for purposes of certification. The Director may issue prior written authorization for a specified trainee's limited enrollment in a subsequent delivery of the same course where the school director provides evidence that:

- (1) The trainee attended and satisfactorily completed specified class hours and topics of the "Detention Officer Certification Course" but through extended absence occasioned by illness, accident, or emergency was absent for more than 10 percent of the total class hours of the course offering; or
- (2) The trainee was granted excused absences by the school director that did not exceed ten percent of the total class hours for the course offering and the school director could not schedule appropriate make-up work during the current course offering as specified in 12 NCAC 10B .0604(c) due to valid reasons; or

- (3) The trainee participated in an offering of the "Detention Officer Certification Course" but had an identified deficiency in essential knowledge or skill in either one, two or three, but no more than three, of the specified topic areas incorporated in the course content as prescribed under 12 NCAC 10B .0601(b).
- (b) An authorization of limited enrollment in a subsequent course delivery may not be used by the Director unless in addition to the evidence required by Paragraph (a) of this Rule:
- (1) The trainee submits a written request to the Director, justifying the limited enrollment and certifying that the trainee's participation shall be accomplished pursuant to Paragraph (c) of this Rule; and
  - (2) The school director of the previous school offering submits to the director a certification of the particular topics and class hours attended and satisfactorily completed by the trainee during the original enrollment.
- (c) An authorization of limited enrollment in a subsequent course delivery permits the trainee to attend an offering of the "Detention Officer Certification Course" commencing within 120 calendar days from the last date of trainee participation in prior course delivery, but only if the trainee's enrollment with active course participation can be accomplished within the period of the trainee's probationary certification:
- (1) The trainee need only attend and satisfactorily complete those portions of the course which were missed or identified by the school director as areas of trainee deficiency in the proper course participation.
  - (2) Following proper enrollment in the subsequent course offering, scheduled class attendance and active participation with satisfactory achievement in the course, the trainee would be eligible for administration of the State Comprehensive Examination by the Commission and possible certification of successful course completion.
  - (3) A trainee shall be enrolled as a limited enrollee in only one subsequent course offering within the 120 calendar days from the last date of trainee participation in prior course delivery. A trainee who fails to successfully complete those limited portions of the course after one retest will be required to enroll in an entire delivery of the Detention Officer Certification Course.
- (d) A trainee who is deficient in four or more subject-matter or topical areas at the conclusion of the course delivery shall complete a subsequent program in its entirety.

*Authority G.S. 17E-4; 17E-7.*

## **SECTION .0700 - MINIMUM STANDARDS FOR JUSTICE OFFICER SCHOOLS AND TRAINING PROGRAMS OR COURSES OF INSTRUCTION**

### **.0702 ADMINISTRATION OF JUSTICE OFFICER SCHOOLS**

The rules covering the administration of Criminal Justice Schools and training programs or courses of instruction, codified as Title 12, Subchapter 9B, Section .0200 of the North Carolina Administrative Code, effective and previously adopted by the North Carolina Criminal Justice Education And Training Standards Commission are hereby incorporated by reference and shall automatically include any later amendments and editions of the incorporated material to apply to actions of the North Carolina Sheriffs' Education and Training Standards Commission with the exception of the Detention Officer Certification Course. Copies of the incorporated materials may be obtained at no cost from the Criminal Justice Standards Division, North Carolina Department of Justice, ~~1 West Morgan Street~~, Post Office Drawer 149, Raleigh, NC 27602.

*Authority G.S. 17E-4.*

### **.0703 ADMINISTRATION OF DETENTION OFFICER CERTIFICATION COURSE**

- (a) The executive officer or officers of the institution or agency sponsoring a Detention Officer Certification Course shall have primary responsibility for implementation of these rules and standards and for administration of the school.
- (b) The executive officers shall designate a compensated staff member who is certified by the Commission who may apply to be the school director. No more than two school directors shall be certified at each accredited institution/agency to deliver a Detention Officer Certification Course. The school director shall have administrative responsibility for planning scheduling, presenting, coordinating, reporting, and generally managing each sponsored detention officer certification ~~course~~: course and shall be readily available at all times during course delivery as specified in 12 NCAC 10B .0704(b).
- (c) The executive officers of the institution or agency sponsoring the Detention Officer Certification Course shall:
- (1) acquire and allocate sufficient financial resources to provide commission-certified instructors and to meet other necessary program expenses;
  - (2) provide adequate secretarial, clerical, and other supportive staff assistance as required by the school director;
  - (3) provide or make available suitable facilities, equipment, materials, and supplies for comprehensive and qualitative course delivery, as required in the "Detention Officer Certification Course Management Guide" and specifically including the following:

- (A) a comfortable, well-lighted and ventilated classroom with a seating capacity sufficient to accommodate all attending trainees;
  - (B) audio-visual equipment and other instructional devices and aids necessary and beneficial to the delivery of effective training;
  - (C) a library for trainees' use covering the subject matter areas relevant to the training course, maintained in current status and having sufficient copies for convenient trainee access;
  - (D) ~~Where required by course content, provide or make available facilities, equipment, and supplies to provide training in physical and motor-skill exercises such as handling disruptive people, CPR, handling fire emergencies and cell searches.~~ a suitable area designated for instruction of specialized control techniques which enables the safe execution of the basic detention officer specialized control techniques topic area, with the following specifications:
    - (i) 30 square feet of floor space per student during the practical exercise portion of this topic area and while testing trainees' proficiency in performing the required maneuvers; and
    - (ii) one instructor for every 10 students during the practical exercise portion of this topic area and while testing trainees' proficiency in performing the required maneuvers; and
    - (iii) restrooms and drinking water within 100 yards of the training site; and
    - (iv) telephone or radio communication immediately available on site;
  - (E) an area designated for use as a jail cell for performing the practical exercises in the topic area entitled "Contraband Searches". If a county jail cell is unavailable, a simulated jail cell is acceptable provided it is built to the same specifications required by the Department of Human Resources with regards to size;
  - (F) a suitable area designated for fire emergencies instruction which enables the safe execution of the lesson plan as follows:
    - (i) a well-ventilated, open area which allows for the setting and putting out of a fire; and
    - (ii) restrooms and drinking water within 100 yards of the training site; and
    - (iii) telephone or radio communication immediately available on site; and
    - (iv) one instructor for every 10 students during the practical exercise portion of this training;
  - (G) a suitable area designated for physical assessment of the detention officer trainees to include:
    - (i) an appropriate area for running, weight lifting and other exercises performed during the assessment which provides a minimum of 20 square feet per trainee during the performance of the exercises required in the assessment; and
    - (ii) restrooms and drinking water within 100 yards of the training site; and
    - (iii) telephone or radio communication immediately available on site; and
    - (iv) shower facilities, if physical assessment is performed prior to classroom training; and
    - (v) one instructor for every 10 students during the performance of the actual assessment;
  - (H) a suitable area designated for instruction in first aid and CPR techniques which provides a minimum of 20 square feet per trainee during the practical exercise portion and testing for proficiency in administering CPR. There must also be one instructor for every 10 students during the practical exercise portion and proficiency testing in administering CPR.
- (4) In the event that an institution or agency does not own a facility as required in this Section, written agreements with other entities must be made to assure use of and timely access to such facilities. A copy of such agreement must accompany the originating institution or agency "Pre-Delivery Report" (Form F7-A) when submitted to the Division.

Authority G.S. 17E-4.

**.0704 RESPONSIBILITIES: SCHOOL DIRECTORS**

(a) In planning, developing, coordinating, and delivering each commission accredited Detention Officer Certification Course, the school director shall:

- (1) Formalize and schedule the course curriculum in accordance with the curriculum standards established by the Commission.
  - (a) (A) The Detention Officer Certification Course shall be presented with a minimum of 40 hours of instruction each week during consecutive calendar weeks until course requirements are completed.
  - (b) (B) In the event of exceptional or emergency circumstances, the Director may, upon written finding of justification, grant a waiver of the minimum hours requirement.
- (2) Select and schedule qualified instructors who are properly certified by the Commission. The selecting and scheduling of instructors is subject to special requirements as follows:
  - (a) (A) No single individual may be scheduled to instruct more than 35 percent of the total hours of the curriculum during any one delivery except as set forth in Part (a)(2)(B) of this Rule.

- (b) (B) Where the school director shows exceptional or emergency circumstances and the school director documents that an instructor is qualified to instruct more than 35 percent of the total hours of the curriculum, the Director of the Division may grant written approval for the expansion of the individual instructional limitation.
- (C) Schedule appropriate number of instructors for specific topic areas as required in 12 NCAC 10B .0703.
- (3) Provide each instructor with a commission-approved course outline and all necessary additional information concerning the instructor's duties and responsibilities.
- (4) Review each instructor's lesson plans and other instructional materials for conformance to established commission standards and to minimize repetition and duplication of subject matter.
- (5) Permanently maintain records of all Detention Officer Certification Courses sponsored or delivered by the school, reflecting:
  - (a) (A) Course title;
  - (b) (B) Delivery hours of course;
  - (c) (C) Course delivery dates;
  - (d) (D) Names and addresses of instructors utilized within designated subject-matter areas;
  - (e) (E) A roster of enrolled trainees, showing class attendance and designating whether each trainee's course participation was successful or unsuccessful including individual test scores indicating each trainee's proficiency in each topic area and methods or instruments;
  - (f) (F) Copies of all rules, regulations and guidelines developed by the school director;
  - (g) (G) Documentation of any changes in the initial course outline, including substitution of instructors; and
  - (h) (H) Documentation of make-up work achieved by each individual trainee, including test scores and methods or instruments.
- (6) Arrange for the timely availability of appropriate audiovisual aids and materials, publications, facilities and equipment for training in all topic ~~areas~~ areas as required in the "Detention Officer Certification Course Management Guide".
- (7) Develop, adopt, reproduce, and distribute any supplemental rules, regulations, and requirements determined by the school to be necessary or appropriate for:
  - (a) (A) Effective course delivery;
  - (b) (B) Establishing responsibilities and obligations of agencies or departments employing course trainees; and
  - (c) (C) Regulating trainee participation and demeanor and ensuring trainee attendance and maintaining performance records.

A copy of such rules, regulations and requirements shall be submitted to the Director as an attachment to the Pre-Delivery Report of Training Course Presentation, Form F-7A. A copy of such rules shall also be given to each trainee and to the sheriff of each trainee's employing agency at the time the trainee enrolls in the course.
- (8) If appropriate, recommend housing and dining facilities for trainees.
- (9) Not less than 30 days before commencing delivery of the course, submit to the Commission a Pre-Delivery Report of Training Course Presentation (Form F-7A) along with the following attachments:
  - (a) (A) A comprehensive course schedule showing arrangement of topical presentations and proposed instructional assignments;
  - (b) (B) A copy of any rules, regulations, and requirements for the school and, when appropriate, completed applications for certification of instructors.

The Director shall review the submitted Pre-Delivery Report together with all attachments to ensure that the school is in compliance with all commission mandated rules and regulations; if school's rules are found to be in violation, the Director shall notify the school director of deficiency, and approval will be withheld until all matters are in compliance with the Commissions' rules.
- (10) Administer the course delivery in accordance with commission-approved procedures, guidelines, and standards and ensure that the training offered is as effective as possible.
- (11) Monitor or designate a certified instructor to monitor the presentations of all probationary instructors during course delivery and prepare formal written evaluations on their performance and suitability for subsequent instructional assignments. These evaluations shall be prepared on commission forms and forwarded to the Division at the conclusion of each delivery. Based on this evaluation the school director shall have the added responsibility for recommending approval or denial of requests for Detention Officer Instructor Certification, Limited Lecturer Certification or Professional Lecturer Certification.
- (12) Monitor or designate a certified instructor to monitor the presentations of all other instructors during course delivery and prepare formal written evaluations on their performance and suitability for subsequent instructional assignments. Instructor evaluations shall be prepared on commission forms in accordance with commission standards. These evaluations shall be kept on file by the school for a period of three years and shall be made available for inspection by

a representative of the Commission upon request.

- (13) Ensure that any designated certified instructor who is evaluating the instructional presentation of another shall, at a minimum, hold certification in the same instructional topic area as that being taught.
- (14) Administer or designate a person to administer appropriate tests as determined necessary at various intervals during course delivery.
- (15) Maintain direct supervision, direction, and control over the performance of all persons to whom any portion of the planning, development, presentation, or administration of a course has been delegated.
- (16) During a delivery of the Detention Officer Certification Course, make available to authorized representatives of the Commission three hours of scheduled class time and classroom facilities for the administration of a written examination to those trainees who have satisfactorily completed all course work.
- (17) Not more than ten days after receiving from the Commission's representative the Report of Examination Scores, the school director shall submit to the Commission a Post-Delivery Report of Training Course Presentation (Form 7-B).

(b) In addition to the requirements in 12 NCAC 10B .0704(a), the school director shall be readily available to students and Division staff at all times during course delivery by telephone, pager, or other means. The means, and applicable numbers, shall be filed with the accredited training delivery site and the Division prior to the beginning of a scheduled course delivery.

Authority: G.S. 17E-4.

#### **.0705 CERTIFICATION: SCHOOL DIRECTORS**

(a) Any person designated to act as, or who performs the duties of, a school director in the delivery or presentation of a commission-accredited detention officer training course shall be and continuously remain certified by the Commission as a school director.

(b) To qualify for certification as school director of the Detention Officer Certification Course, the applicant shall:

- (1) Submit a written request for the issuance of such certification executed by the executive officer of the institution or agency currently accredited, or which may be seeking accreditation, by the Commission to make presentation of accredited training programs and for whom the applicant will be the designated school director;
- (2) Be currently certified as a criminal justice instructor by the North Carolina Criminal Justice Education and Training Standards Commission; ~~and~~
- (3) Attend or must have attended the most current offering of the school director's orientation as developed and presented by the Commission staff; and
- (~~3~~) (4) Attend or must have attended the most current offering of the school director's conference as presented by the Commission staff and staff of the North Carolina Criminal Justice Education and Training Standards Commission and Standards Division.

Authority: G.S. 17E-4.

#### **.0706 TERMS AND CONDITIONS OF SCHOOL DIRECTOR CERTIFICATION**

(a) The term of certification as a school director is two years from the date the Commission issues the certification unless earlier terminated by action of the Commission. Upon application the certification may subsequently be renewed by the Commission for two-year periods. The application for renewal shall contain documentation meeting the requirements of Rule .0705(b)(1).

(b) To retain certification as a school director, the school director shall:

- (1) Adequately perform the duties and responsibilities of a school director as specifically required in Rule ~~.0704~~; .0704;
- (2) Maintain an updated copy of the "Detention Officer Certification Training Manual" assigned to each accredited ~~school~~; school; ~~and~~
- (3) Ensure compliance with the Commission's accreditation requirements as set forth in 12 NCAC 10B .0703 and .0802.

Authority: G.S. 17E-4.

#### **.0707 SUSPENSION: REVOCATION: OR DENIAL: SCHOOL DIRECTOR CERT**

The Commission may deny, suspend, or revoke certification of a school director when the Commission finds that the person has failed to meet or continuously maintain any of the requirements for ~~qualification~~ qualification, ~~or any of the terms and conditions as specified in 12 NCAC 10B .0706~~, or through performance fails to comply with program rules and procedures of the Commission or otherwise demonstrates incompetence.

Authority: G.S. 17E-4.



**SECTION .0800 - ACCREDITATION OF JUSTICE OFFICER SCHOOLS AND TRAINING COURSES**

**.0801 ACCREDITATION: JUSTICE OFFICER SCHOOLS/TRAINING COURSES**

The rules covering the accreditation of Criminal Justice Schools and training courses, codified as Title 12, Subchapter 9C, Section .0400 of the North Carolina Administrative Code, and previously adopted by the North Carolina Criminal Justice Education And Training Standards Commission, are hereby incorporated by reference and shall automatically include any later amendments and editions of the incorporated material to apply to actions of the Commission with the exception of the Detention Officer Instructor, Detention Officer Schools and Training Courses. Copies of the incorporated materials may be obtained at no cost from the Criminal Justice Standards Division, North Carolina Department of Justice, ~~1 West Morgan Street~~, Post Office Drawer 149, Raleigh, NC 27602.

*Authority G.S. 17E-4.*

**.0802 ACCREDITATION: DELIVERY/DETENTION OFFICER CERTIFICATION COURSE**

(a) An institution or agency ~~to must~~ be accredited to deliver a Detention Officer Certification Course. ~~Course must submit a Form F-7 requesting school accreditation:~~

(b) In order to obtain accreditation, an institution or agency shall meet or exceed the following minimum standards for overall course delivery:

- (1) the institution or agency shall conduct a minimum of one Detention Officer Certification Course each calendar year;
- (2) the executive officer shall comply with the requirements of 12 NCAC 10B .0703; and
- (3) the executive officer shall comply with the additional accreditation requirements as specified in the "Detention Officer Certification Course Management Guide".

(c) An institution or agency meeting the requirements of 12 NCAC 10B .0802(b) may submit a "Request for Accreditation" (Form F-7) to the Division. Upon receipt of the request, the Division staff shall:

- (1) review the application for completeness;
- (2) contact the institution or agency executive officer or designated school director to schedule an on-site visit and tour of the proposed training facilities;
- (3) during the on-site visit note any deficiencies and attempt to provide assistance and recommendations in correcting those deficiencies; and
- (4) notify the applying institution or agency, in writing, of the approval or denial of the accreditation request.

(d) In cases where the deficiencies prohibit the immediate accreditation of the institution or agency, the application will be placed in a pending status:

- (1) applications may remain in a pending status for no more than 30 days from the date of notification of any deficiencies; and
- (2) within or following the 30 day period, the Division will:
  - (A) issue accreditation; or
  - (B) notify the institution or agency, in writing, that it must re-apply for accreditation.

(e) Any existing commission-issued accreditations issued and valid on July 31, 1998 are automatically extended with an expiration date of December 31, 1999 at which time the previously issued accreditation will be terminated.

(f) All new applicants for accreditation shall meet the requirements of this Section after August 1, 1998.

(g) The Division staff shall conduct an on-site accreditation audit once each calendar year which shall include, but is not limited to:

- (1) the review of all records maintained by the school director as required in 12 NCAC 10B .0704; and
- (2) the inspection of the institution or agency's training facilities to ensure continued compliance with accreditation standards as required in 12 NCAC 10B .0703 and .0802.

(h) Following the annual audit, the Division staff shall:

- (1) notify the institution or agency of the results of the audit; and
- (2) recommend to the Commission's Probable Cause Committee any action pursuant to 12 NCAC 10B .0802(i).

~~(b)~~ (i) School accreditation shall remain effective until surrendered, suspended, or revoked.

~~(c)~~ (j) The Commission may suspend or revoke the accreditation of a school when it finds that the school has failed to meet or to continuously maintain any requirement, standard or procedure for school accreditation or course delivery as required by Section .0700 of this Subchapter.

*Authority G.S. 17E-4.*

**SECTION .0900 - MINIMUM STANDARDS FOR JUSTICE OFFICER INSTRUCTORS**

**.0903 CERT: INSTRUCTORS FOR DETENTION OFFICER CERTIFICATION COURSE**

(a) Any person participating in a commission-accredited Detention Officer Certification Course as an instructor, teacher, professor, lecturer, or other participant making presentations to the class shall first be certified by the Commission as an instructor. A waiver may be granted by the Director upon receipt of a written application to teach in a designated school.

(b) The Commission shall certify Detention Officer Certification Course instructors under the following categories:

- (1) Detention Officer Instructor Certification;
- (2) Professional Lecturer Certification; or
- (3) Limited Lecturer Certification as outlined in Rules .0904, .0906 and .0908 of this Section.

(c) In addition to all other requirements of this Section, each instructor certified by the Commission to teach in a Commission-accredited Detention Officer Certification Course shall remain knowledgeable in their specific areas and shall attend and successfully complete any instructor training updates related to curriculum content and delivery as may be offered by the curriculum developer and within the time period as specified by the curriculum developer.

*Authority G.S. 17E-4.*

**.0908 LIMITED LECTURER CERTIFICATION**

(a) The Commission may issue a Limited Lecturer Certification to an applicant who has developed specific or special skills by virtue of specific or special training. Limited Lecturer Certification may be issued in the following topical areas:

- (1) First Aid and CPR;
- (2) ~~Unarmed Self Defense; Specialized Control Techniques;~~
- (3) Fire Emergencies in the Jail;
- (4) Medical Care in the Jail;
- (5) Physical Assessment of Detention ~~Officers; Officers;~~
- (6) Fingerprinting and Photographing Arrestees.

(b) To be eligible for a Limited Lecturer Certificate for topic areas set forth in Rule .0908(a), the applicant must possess a current valid CPR certification and meet the qualifications as follows:

- (1) First Aid and CPR: Certified Standard First Aid Instructor with the American Red Cross or a licensed physician, Family Nurse Practitioner, Licensed Practical Nurse (LPN), Registered Nurse (RN), Physician's Assistant, or EMT;
- (2) ~~Unarmed Self Defense: successful completion of N.C. Department of Corrections Specialized Instructor Training - Unarmed Self Defense; certified by N.C. Criminal Justice Education and Training Standards Commission as specific Corrections Unarmed Self Defense Instructor; Specialized Control Techniques: certified by NC Criminal Justice Education and Training Standards Commission as Defensive Tactics Instructor and compliance with Rule .0903(c) of this Section;~~
- (3) Fire Emergencies in the Jail: Certified Fire Instructor;
- (4) Medical Care in a Jail: A Licensed Physician, Family Nurse Practitioner, LPN, RN, or EMT, or Physician's Assistant;
- (5) Physical Assessment of Detention Officer: certified as a Physical Fitness Instructor by the North Carolina Criminal Justice Education and Training Standards ~~Commission; Commission;~~
- (6) Fingerprinting and Photographing Arrestees: certified as a General Instructor by the North Carolina Criminal Justice Education and Training Standards Commission.

*Authority G.S. 17E-4.*

**.0909 TERMS AND CONDITIONS OF A LIMITED LECTURER CERTIFICATION**

(a) An applicant meeting the requirements for certification as a Limited Lecturer shall, for the first 12 months of certification, be in a probationary status. The Limited Lecturer Certification, Probationary Status, shall automatically expire 12 months from the date of issuance.

(b) The probationary instructor shall be eligible for full Limited Lecturer status at the end of the probationary period if the instructor, through application, submits to the Commission:

- (1) a favorable recommendation from a school director accompanied by certification on a commission Instructor Evaluation Form that the instructor taught at least four hours in each of the topics for which Limited Lecturer Certification, Probationary Status was granted. Such instruction must have occurred in a commission-accredited detention officer training course during the probationary period. The results of the student evaluation must be considered by the school director when determining the recommendation; or
- (2) a favorable written evaluation by a commission or staff member, based on an on-site classroom evaluation of the probationary instructor in a commission-accredited detention officer training course. Such evaluation must be certified on a commission Instructor Evaluation Form completed where the probationary instructor taught a minimum

of four hours in each topic for which Limited Lecturer Certification, Probationary Status was granted; and

(3) documentation that all other certifications required in 12 NCAC 10B .0908 remain ~~valid~~; valid; and

(4) possess a current valid CPR certification.

(c) Full Limited Lecturer Certification shall be continuous so long as the lecturer submits to the Division every two years:

(1) a favorable written recommendation from a school director accompanied by certification on a commission instructor evaluation form that the lecturer successfully taught at least four hours in each of the topics for which Limited Lecturer Certification was granted during the previous two-year period; or

(2) a favorable written evaluation by a commission member or staff member based on an on-site classroom observation of the lecturer while teaching a minimum of four hours in each of the topics for which Limited Lecturer Certification was granted; and

(3) a renewal application to include documentation that all other certifications required in 12 NCAC 10B .0908 remain ~~valid~~; valid; and

(4) possess a current valid CPR certification.

(d) The date Full Limited Lecturer Certification is originally issued is the anniversary date from which each two-year period is figured.

(e) If a lecturer does not teach a minimum of four hours, in each of the topics for which Limited Lecturer Certification was granted, during each two-year period following the awarding of Full Limited Lecturer Certification, his/her certification automatically expires, and the lecturer must then apply for probationary limited lecturer certification and must meet all applicable requirements.

*Authority G.S. 17E-4.*

#### **.0910 USE OF GUEST PARTICIPANTS**

The use of guest participants in a delivery of the Detention Officer Certification Course is ~~permissible~~; permissible with the exception of those topic areas requiring instructors certified pursuant to 12 NCAC 10B .0908 and .0909. ~~However, such~~ Such guest participants are subject to the direct on-site supervision of a commission-certified instructor and must be authorized by the school director. A guest participant shall only be used to complement the primary certified instructor of the topic area and shall in no way replace the primary instructor.

*Authority G.S. 17E-4.*

#### **.0911 SUSPENSION: REVOCATION: DENIAL OF DETENTION OFFICER INSTRUCTOR CERTIFICATION**

(a) The Division may notify an applicant for instructor certification or a certified instructor that a deficiency appears to exist and attempt, in an advisory capacity, to assist the person in correcting the deficiency.

(b) When any person certified as an instructor by the Commission is found to have knowingly and willfully violated any provision or requirement of these Rules, the Commission may take action to correct the violation and to ensure that the violation does not recur, including:

(1) issuing an oral warning and request for compliance;

(2) issuing a written warning and request for compliance;

(3) issuing an official written reprimand;

(4) suspending the individual's certification for a specified period of time or until acceptable corrective action is taken by the individual;

(5) revoking the individual's certification.

(c) The Commission may deny, suspend, or revoke an instructor's certification when the Commission finds that the person:

(1) has failed to meet and maintain any of the requirements for qualification; or

(2) has failed to remain currently knowledgeable in the person's areas of ~~expertise~~; expertise by failing to attend and successfully complete any instructor training updates pursuant to 12 NCAC 10B .0903(c); or

(3) has failed to deliver training in a manner consistent with the instructor lesson plans; or

(4) has failed to follow specific guidelines outlined in the "Detention Officer Certification Course Management Guide" which is hereby incorporated by reference and shall automatically include any later amendments and editions of the referenced materials. This publication is authored by and may be obtained from the North Carolina Justice Academy, Post Office Drawer 99, Salemburg, NC 28385 at no cost at the time of adoption of this Rule; or

(5) has demonstrated unprofessional personal conduct in the delivery of commission-mandated training; or

(6) has otherwise demonstrated instructional incompetence; or

(7) has knowingly and willfully obtained, or attempted to obtain instructor certification by deceit, fraud, or misrepresentation.

Authority G.S. 17E-4.

**SECTION .1000 - PROFESSIONAL CERTIFICATE PROGRAM FOR SHERIFFS AND DEPUTY SHERIFFS**

**.1002 GENERAL PROVISIONS**

(a) In order to be eligible for one or more of the professional awards, a sheriff or deputy sheriff shall first meet the following preliminary qualifications:

- (1) Be an elected or appointed sheriff or be a deputy sheriff who holds valid General or Grandfather Certification. A deputy sheriff serving under a probationary certification is not eligible for consideration. Any justice officer subject to suspension or revocation proceedings by the Commission or the North Carolina Criminal Justice Education and Training Standards Commission shall not be eligible for professional awards for the pendency of the proceeding.
- (2) The sheriff or deputy sheriff shall be familiar with and subscribe to the Law Enforcement Code of Ethics.
- (3) If the applicant is a deputy sheriff, the deputy shall be a full-time sworn member of a North Carolina Sheriff's Department, as certified in writing by the sheriff; or be ~~an~~ a full-time employee of an agency who must be sworn by the sheriff in order to perform his duties as certified in writing by the Sheriff.
- (4) Employees of a North Carolina Sheriff's Department who have previously held general or grandfather law enforcement officer certification but are presently, by virtue of promotion or transfer, serving in non-sworn positions not subject to certification are eligible to participate in the Professional Certificate Program. Eligibility for this exception requires continuous employment with the sheriff's department from the date of promotion or transfer from a sworn, certified position to the date of application for a professional certificate.
- (5) Only training and/or experience gained in an officer's area of expertise will be eligible for application to this program.

(b) Certificates are awarded based upon a formula which combines formal education, law enforcement training, and actual experience as a law enforcement officer. These professional certificates are appropriate for sworn sheriffs and full-time deputy sheriffs. Points are computed in the following manner:

- (1) Each semester hour of college credit shall equal one education point and each quarter hour shall equal two-thirds of a an education point; point. No correspondence or vocational courses shall be credited towards education points unless an accredited institution credits the course(s) towards a degree;
- (2) Twenty classroom hours of commission-approved law enforcement training shall equal one training point;
- (3) ~~Only experience~~ Experience as a sworn ~~member of a~~ law enforcement officer as defined in Rule .0103(16) ~~agency or equivalent experience~~ shall be acceptable for consideration;
- (4) Applicants holding degrees will not be awarded additional points for those degrees and must instead meet the training point requirements of this Section through completion of law enforcement training.

Authority G.S. 17E-4.

**.1004 INTERMEDIATE LAW ENFORCEMENT CERTIFICATE**

(a) In addition to the qualifications set forth in Rule .1002, applicants for the Intermediate Law Enforcement Certificate shall possess or be eligible to possess the Basic Law Enforcement Certificate and shall have acquired the following combination of educational points or degrees, law enforcement training points and years of law enforcement training experience:

Educational Degrees	None	None	None	<u>AA/AS Associate</u>	<u>BS/BA Bachelor</u>
Years of Law Enforcement Experience	8	6	4	4	2
Minimum Law Enforcement Training Points	20	35	50	24	23
Minimum Total Education and Training Points	39	69	99	24	23

(b) Educational points claimed shall have been earned at a technical institute, technical college, community college, junior

college, college or university accredited as such by the Department of Education of the state in which the institution is located, the national accrediting body, or the state university of the state in which the institution is located. No credit shall be given for any correspondence or vocational courses unless credited towards a degree by an accredited institution.

Authority G.S. 17E-4.

**.1005 ADVANCED LAW ENFORCEMENT CERTIFICATE**

(a) In addition to the qualifications set forth in Rule .1002, applicants for the Advanced Law Enforcement Certificate shall possess or be eligible to possess the Intermediate Law Enforcement Certificate and shall have acquired the following combination of educational points or degrees, law enforcement training points and years of law enforcement experience:

Educational Degrees	None	None	<u>AA/AS Associate</u>	<u>BS/BA Bachelor</u>	<u>GRAD/PRO Doctoral, Professional or Master</u>
Years of Law Enforcement Experience	12	9	9	6	4
Minimum Law Enforcement Training Points	35	50	33	27	23
Minimum Total Education and Training Points	69	99	33	27	<u>23</u>

(b) Educational points claimed shall have been earned at a technical institute, technical college, community college, junior college, college or university accredited as such by the Department of Education of the state in which the institution is located, the regional accrediting body, or the state university of the state in which the institution is located. No credit shall be given for any correspondence or vocational courses unless credited towards a degree by an accredited institution.

Authority G.S. 17E-4.

**.1006 HOW TO APPLY**

(a) All applicants for an award of the basic, intermediate or advanced certificates shall complete an "Application: Professional Certificate/Service Award", (F-6).

(b) Documentation of education ~~and training~~ shall be provided by copies of transcripts, diplomas, or certified letters from the accredited institution. ~~Report of Training Course Completion, agency training records, or other verifying documents attached to the application.~~

(c) Documentation of training shall be provided by copies of training records signed by the agency's training officer or department head, or by providing certificates of completion. Military Police Officers shall provide a military DD-214 form for verification of service. Federal government employees (law enforcement agencies), shall provide certified letters of verification of employment or copies of federal oaths of office.

(~~e~~) (d) Documentation of the applicant's length of service in North Carolina shall be based upon the Division's certification records, however, oaths of office may be requested of the applicant. Documentation shall be provided by certified copies of past Oaths of Office, by certified letters of verification of employment from present and/or former out-of-state employers ~~employees (law enforcement agencies); (law enforcement agencies), or other verifying documents attached to the application.~~

(~~d~~) (e) The applicant shall submit the "Application: Professional Certificate/Service Award", (F-6) to the agency head who shall attach his recommendation and forward the application to the Division. Certificates will be issued to the agency head for award to the applicant.

Authority G.S. 17E-4.

**SECTION .1100 - SHERIFFS' AND JUSTICE OFFICERS' SERVICE AWARD PROGRAM**

**.1101 PURPOSE**

In order to recognize Sheriffs' and Justice Officers' loyal and competent service to a particular sheriff's ~~department,~~ department in North Carolina, and also to the State of North Carolina, the Commission establishes the Sheriffs' and Justice Officers' Service Award Program. This program is a method by which dedicated officers may receive local, state-wide and nation-wide recognition for their loyal and competent law enforcement service.

*Authority G.S. 17E-4.*

**.1102 GENERAL PROVISIONS**

(a) In order to be eligible for one or more of the service awards, a Justice Officer or Sheriff shall first meet the following preliminary qualifications:

- (1) Be an elected or appointed sheriff or be a justice officer that holds a valid general or grandfather certification. An officer serving under a probationary certification is not eligible for consideration. Any justice officer subject to suspension or revocation proceedings by the Commission or the North Carolina Criminal Justice Education and Training Standards Commission shall not be eligible for a service award for the pendency of the proceeding.
- (2) The Sheriff or justice officer shall be familiar with and subscribe to the Law Enforcement Code of Ethics.
- (3) Also, employees of a North Carolina Sheriff's Department who have previously held certification, but are presently, by virtue of promotion or transfer, serving in positions not subject to certification are eligible to participate in the service award program. Eligibility for this exception requires continuous employment with a sheriff's department from the date of promotion or transfer from a certified position to the date of application for a service award as certified in writing by the Sheriff.

(b) Only experience as a full-time certified member of a law enforcement agency in North Carolina or experience as an elected or appointed sheriff in North Carolina shall be acceptable for consideration.

*Authority G.S. 17E-4.*

**.1103 INTERMEDIATE SERVICE AWARD**

In addition to the qualifications set forth in Rule .1102 an applicant must have served a minimum of 15 years as a certified justice officer. ~~Years of service as an elected or appointed sheriff are also applicable.~~

*Authority G.S. 17E-4.*

**.1104 ADVANCED SERVICE AWARD**

In addition to the qualifications set forth in Rule .1102 an applicant must have served a minimum of 20 years as a certified justice officer. ~~Years of service as an elected or appointed sheriff are also applicable.~~

*Authority G.S. 17E-4.*

**.1105 HOW TO APPLY**

(a) All applicants for either the Intermediate Service Award or the Advanced Service Award shall complete an "Application: Professional Certificate/Service Award," (F-6).

(b) Documentation of the applicant's length of service in North Carolina shall be based upon the Division's certification records, however, oaths of office may be requested of the applicant. ~~provided by certified copies of past Oaths of Office, by certified letters of verification of employment from present and/or former employers (law enforcement agencies), or other verifying documents attached to the application.~~

(c) The applicant shall submit the application to the agency head who shall attach his recommendation and forward the application to the Division. The Service Award will be issued to the agency head for presentation to the applicant.

*Authority G.S. 17E-4.*

**SECTION .1200 - PROFESSIONAL CERTIFICATE PROGRAM FOR DETENTION OFFICERS**

**.1202 GENERAL PROVISIONS**

(a) In order to be eligible for one or more of the detention officer professional awards, a detention officer shall first meet the following preliminary qualifications:

- (1) Be a full-time detention officer who holds valid general or grandfather certification. A detention officer serving under a probationary certification is not eligible for consideration. Any detention officer subject to suspension or revocation

proceedings by the Commission or the North Carolina Criminal Justice Education and Training Standards Commission shall not be eligible for any detention officer professional awards for the pendency of the proceeding.

- (2) Be familiar with and subscribe to the Law Enforcement Code of Ethics as promulgated by the International Association of Chiefs of Police to include any subsequent editions or modifications thereto. A copy of the Code of Ethics may be obtained at no cost from the Sheriffs' Standards Division, North Carolina Department of Justice, Post Office Box 629, Raleigh, North Carolina 27602-0629.
- (3) Employees of a North Carolina Sheriff's Department who have previously held general or grandfather detention officer certification but are presently, by virtue of promotion or transfer, serving in positions not subject to certification are eligible to participate in the Professional Certificate Program. Eligibility for this exception requires continuous employment with the sheriff's department from the date of promotion or transfer from a certified position to the date of application for a professional certificate.
- (b) Only training and experience gained in an officer's area of expertise will be eligible for application to this program.
- (c) Certificates shall be awarded based upon a formula which combines formal education, training, and actual experience as a detention officer. Points are computed in the following manner:
  - (1) Each semester hour of college credit shall equal one education point and each quarter hour shall equal two thirds of a an education point; point. No correspondence or vocational courses shall be credited towards education points unless an accredited institution credits the course(s) towards a degree;
  - (2) Twenty classroom hours of commission-approved training shall equal one training point;
  - (3) ~~Only experience~~ Experience as a member of a ~~law enforcement agency~~ correctional or detention facility in North Carolina as defined in Rule .0103(13) of this Subchapter or ~~equivalent experience~~ shall be acceptable for consideration;
  - (4) Applicants holding degrees shall not be awarded additional points for those degrees and must instead meet the training point requirements of this Section through completion of training in the field of jails or corrections.

Authority G.S. 17E-4.

**.1204 INTERMEDIATE DETENTION OFFICER PROFESSIONAL CERTIFICATE**

(a) In addition to the qualifications set forth in Rule .1202, applicants for the Intermediate Detention Officer Professional Certificate shall possess or be eligible to possess the Basic Detention Officer Professional Certificate and shall have acquired the following combination of educational points or degrees, detention officer or corrections training points and years of detention officer experience:

Educational Degrees	None	None	None	<del>AA/AS</del> Associate	<del>BS/BA</del> Bachelor
Years of Detention Officer Experience	8	6	4	4	2
Minimum Detention Officer Training Points	6	12	16	24	23
Minimum Total Education and Training Points	13	23	33	24	23

(b) Educational points claimed shall have been earned at a technical institute, technical college, community college, junior college, college or university accredited as such by the Department of Education of the state in which the institution is located, the national accrediting body, or the state university of the state in which the institution is located. No credit shall be given for any correspondence or vocational courses unless credited towards a degree by an accredited institution.

Authority G.S. 17E-4.

**.1205 ADVANCED DETENTION OFFICER PROFESSIONAL CERTIFICATE**

(a) In addition to the qualifications set forth in Rule .1202, applicants for the Advanced Detention Officer Professional Certificate shall possess or be eligible to possess the Intermediate Detention Officer Professional Certificate and shall have acquired the following combination of educational points or degrees, detention officer or corrections training points and years of detention officer experience:

Educational Degrees	None	None	AA/AS Associate	BS/BA Bachelor	GRAD/PRO Doctoral, Professional or Master
Years of Detention Officer Experience	12	9	9	6	4
Minimum Detention Officer Training Points	12	16	27	26	26
Minimum Total Education and Training Points	23	33	27	26	26

(b) Educational points claimed shall have been earned at a technical institute, technical college, community college, junior college, college or university accredited as such by the Department of Education of the state in which the institution is located, the regional accrediting body, or the state university of the state in which the institution is located. No credit shall be given for any correspondence or vocational courses unless credited towards a degree by an accredited institution.

Authority G.S. 17E-4.

**.1206 HOW TO APPLY**

(a) All applicants for an award of the Basic, Intermediate or Advanced Certificates shall complete an "Application: Professional Certificate/Service Award", (F-6).

(b) Documentation of education ~~and training~~ shall be provided by copies of transcripts, diplomas, or certified letters from the accredited institution. ~~Report of Training Course Completion, agency training records, or other verifying documents attached to the application.~~

(c) Documentation of training shall be provided by copies of training records signed by the agency's training officer or department head, or by providing certificates of completion. No out-of-state training shall be accepted, unless, the officer is employed in North Carolina during the time of training.

~~(c) (d) Documentation of the applicant's length of service in North Carolina shall be based upon the Division's certification records, however, shall be provided by certified letters of verification of employment from present and/or former employers, employers may be requested of applicant, or other verifying documents attached to the application. No out-of-state length of service shall be applicable to this certificate program.~~

~~(d) (e)~~ (e) The applicant shall submit the "Application: Professional Certificate/Service Award", (F-6) to his sheriff who shall attach his recommendation and forward the application to the Commission. Certificates will be issued to the sheriff for award to the applicant.

Authority G.S. 17E-4.



**TITLE 15A - DEPARTMENT OF ENVIRONMENT,  
HEALTH, AND NATURAL RESOURCES**

**N**otice is hereby given in accordance with G.S. 150B-21.2 that the DENR - Environmental Management Commission intends to amend rules cited as 15A NCAC 2D .0535, .0927, .1102 - .1104, .1106, .1109, .1201, .1205; 2Q .0101 - .0102, .0301 - .0302, .0306, .0312, .0501; adopt rules cited as 15A NCAC 2D .1112; 2Q .0527, .0701 - .0713; and repeal rule cited as 15A NCAC 2H .0610. Notice of Rule-making Proceedings was published in the Register on December 15, 1995 and July 15, 1996.

**Proposed Effective Date:** July 1, 1998

**A Public Hearing** will be conducted at 7:00 p.m. on November 18, 1997 at the Archdale Building, Groundfloor Hearing Room, 512 N. Salisbury Street, Raleigh, NC 27603.

**Reason for Proposed Action:**

15A NCAC 2D .1109, .1112; 2Q .0302, .0306, .0312, .0527 - To amend the case-by-case Maximum Achievable Control Technology rules by incorporating details of the final federal requirements into the existing state rules requiring and specifying procedures for such determinations.

15A NCAC 2D .0535, .0927, .1102 - .1104, .1106, .1201, .1205; 2H .0610; 2Q .0101 - .0102, .0301, .0501, .0701 - .0713 - To: (1) amend the air toxics rules by recodifying them into a new Section; (2) incorporate the five Air Toxic Workgroup recommendations: option for DAQ to model, change averaging time for acute irritants from 15 minutes to 1 hour, include pollution prevention for certain demonstrations, exempt combustion sources, and exempt insignificant activities where appropriate; and (3) add a one-hour acceptable ambient level (AAL) for methylene chloride and revised AAL for toluene diisocyanate.

**Comment Procedures:** All persons interested in these matters are invited to attend the public hearings. Any person desiring to comment for more than three minutes is requested to submit a written statement for inclusion in the record of proceedings at the public hearing. The hearing record will remain open until December 15, 1997, to receive additional written statements.

**NOTE:** In addition to the amendments and adoptions, the Environmental Management Commission (EMC) is asking for specific comment on two issues: 1) the appropriateness of defining through rulemaking federal Maximum Achievable Control Technology (MACT) to be the equivalent of maximum feasible control technology for sources subject to MACT; and 2) allowing new facilities to apply maximum feasible control technology in instances where it is technically or economically infeasible to demonstrate compliance with an acceptable ambient level or where the affected area is considered uninhabitable.

Comments should be sent to and additional information

concerning the hearing or the proposals may be obtained by contacting:

Mr. Thomas C. Allen  
Division of Air Quality  
PO Box 29580  
Raleigh, NC 27626-0580  
(919) 733-1489 (phone)  
(919) 715-7476 (fax)  
thom\_allen@aq.ehnr.state.nc.us (e-mail)

**Fiscal Note:** These Rules do not affect the expenditures or revenues of state or local government funds. Rules in 2D .1100 and 2Q .0700 do have a substantial economic impact of at least five million dollars (\$5,000,000) in a 12-month period. The remainder rules do not have a substantial economic impact.

**CHAPTER 2 - ENVIRONMENTAL MANAGEMENT**

**SUBCHAPTER 2D - AIR POLLUTION CONTROL  
REQUIREMENTS**

**SECTION .0500 - EMISSION CONTROL STANDARDS**

**.0535 EXCESS EMISSIONS REPORTING AND  
MALFUNCTIONS**

(a) For this Rule the following definitions apply:

- (1) "Excess Emissions" means an emission rate that exceeds any applicable emission limitation or standard allowed by any rule in Sections .0500, .0900, .1200, or .1400 of this Subchapter; or by a permit condition; or that exceeds an emission limit established in a permit issued under 15A NCAC 2H ~~.0610~~ 2Q .0700.
- (2) "Malfunction" means any unavoidable failure of air pollution control equipment, process equipment, or process to operate in a normal and usual manner that results in excess emissions. Excess emissions during periods of routine start-up and shut-down of process equipment shall not be considered a malfunction. Failures caused entirely or in part by poor maintenance, careless operations or any other upset condition within the control of the emission source shall not be considered a malfunction.
- (3) "Start-up" means the commencement of operation of any source that has shut-down or ceased operation for a period sufficient to cause temperature, pressure, process, chemical, or a pollution control device imbalance that would result in excess emission.
- (4) "Shut-down" means the cessation of the operation of any source for any purpose.

(b) This Rule does not apply to sources to which Rules .0524, .1110, or .1111 of this Subchapter applies unless excess emissions exceed an emission limit established in a permit issued under 15A NCAC 2H ~~.0610~~ 2Q .0700 that is

more stringent than the emission limit set by Rules .0524, .1110 or .1111 of this Subchapter.

(c) Any excess emissions that do not occur during start-up or shut-down shall be considered a violation of the appropriate rule unless the owner or operator of the source of excess emissions demonstrates to the Director, that the excess emissions are the result of a malfunction. To determine if the excess emissions are the result of a malfunction, the Director shall consider, along with any other pertinent information, the following:

- (1) The air cleaning device, process equipment, or process has been maintained and operated, to the maximum extent practicable, consistent with good practice for minimizing emissions;
- (2) Repairs have been made expeditiously when the emission limits have been exceeded;
- (3) The amount and duration of the excess emissions, including any bypass, have been minimized to the maximum extent practicable;
- (4) All practical steps have been taken to minimize the impact of the excess emissions on ambient air quality;
- (5) The excess emissions are not part of a recurring pattern indicative of inadequate design, operation, or maintenance;
- (6) The requirements of Paragraph (f) of this Rule have been met; and
- (7) If the source is required to have a malfunction abatement plan, it has followed that plan.

All malfunctions shall be repaired as expeditiously as practicable. However, the Director shall not excuse excess emissions caused by malfunctions from a source for more than 15 percent of the operating time during each calendar year. The Director may require the owner or operator of a facility to maintain records of the time that a source operates when it or its air pollution control equipment is malfunctioning or otherwise has excess emissions.

(d) All electric utility boiler units subject to a rule in this Section shall have a malfunction abatement plan approved by the Director. In addition, the Director may require any other source to have a malfunction abatement plan approved by the Director. If the Director requires a malfunction abatement plan for a source other than an electric utility boiler, the owner or operator of that source shall submit a malfunction abatement plan within 60 days after receipt of the Director's request. The malfunction plans of electric utility boiler units and of other sources required to have them shall be implemented when a malfunction or other breakdown occurs. The purpose of the malfunction abatement plan is to prevent, detect, and correct malfunctions or equipment failures that could result in excess emissions. A malfunction abatement plan shall contain as a minimum:

- (1) a complete preventive maintenance program including:
  - (A) the identification of individuals or positions responsible for inspecting, maintaining and repairing air cleaning devices;

- (B) a description of the items or conditions that will be inspected and maintained;
  - (C) the frequency of the inspection, maintenance services, and repairs; and
  - (D) an identification and quantities of the replacement parts that shall be maintained in inventory for quick replacement;
- (2) an identification of the source and air cleaning operating variables and outlet variables, such as opacity, grain loading, and pollutant concentration, that may be monitored to detect a malfunction or failure; the normal operating range of these variables and a description of the method of monitoring or surveillance procedures and of informing operating personnel of any malfunctions, including alarm systems, lights or other indicators; and
  - (3) a description of the corrective procedures that the owner or operator will take in case of a malfunction or failure to achieve compliance with the applicable rule as expeditiously as practicable but no longer than the next boiler or process outage that would provide for an orderly repair or correction of the malfunction or 15 days, whichever is shorter. If the owner or operator anticipates that the malfunction would continue for more than 15 days, a case-by-case repair schedule will be established by the Director with the source.

The owner or operator shall maintain logs to show that the operation and maintenance parts of the malfunction abatement plan are implemented. These logs shall be subject to inspection by the Director or his designee upon request during business hours.

(e) The owner or operator of any electric utility boiler unit required to have a malfunction abatement plan shall submit a malfunction abatement plan to the Director within 60 days of the effective date of this Rule. The owner or operator of any other source required by the Director to have a malfunction abatement plan shall submit a malfunction abatement plan to the Director within six months after it has been required by the Director. The malfunction abatement plan and any amendment to it shall be reviewed by the Director or his designee. If the plan is satisfactory, the Director shall approve it. If the plan does not adequately carry out the objectives described by Paragraph (d) of this Rule, the Director shall disapprove the plan. The Director shall state his reasons for his disapproval. The person who submits the plan shall satisfactorily amend the plan as required by the Director within a time prescribed by the Director. Any person having an approved malfunction abatement plan shall submit to the Director for his approval amendments reflecting changes in any element of the plan required by Paragraph (d) of this Rule or amendments when requested by the Director. The malfunction abatement plan and amendments to it shall be implemented within 90 days upon receipt of written notice of approval.

(f) The owner or operator of a source of excess emissions

that last for more than four hours and that results from a malfunction, a breakdown of process or control equipment or any other abnormal conditions, shall:

- (1) notify the Director or his designee of any such occurrence by 9:00 a.m. Eastern time of the Division's next business day of becoming aware of the occurrence and describe:
  - (A) name and location of the facility,
  - (B) the nature and cause of the malfunction or breakdown,
  - (C) the time when the malfunction or breakdown is first observed,
  - (D) the expected duration, and
  - (E) an estimated rate of emissions;
- (2) notify the Director or his designee immediately when the corrective measures have been accomplished;
- (3) submit to the Director within 15 days after the request a written report that includes:
  - (A) name and location of the facility,
  - (B) identification or description of the processes and control devices involved in the malfunction or breakdown,
  - (C) the cause and nature of the event,
  - (D) time and duration of the violation or the expected duration of the excess emission if the malfunction or breakdown has not been fixed,
  - (E) estimated quantity of pollutant emitted,
  - (F) steps taken to control the emissions and to prevent recurrences and if the malfunction or breakdown has not been fixed, steps planned to be taken, and
  - (G) any other pertinent information requested by the Director.

After the malfunction or breakdown has been corrected, the Director may require the owner or operator of the source to test the source in accordance with Rule .0501 of this Section to demonstrate compliance.

(g) Start-up and shut-down. Excess emissions during start-up and shut-down shall be considered a violation of the appropriate rule if the owner or operator cannot demonstrate that the excess emissions are unavoidable when requested to do so by the Director. The Director may specify for a particular source the amount, time, and duration of emissions allowed during start-up or shut-down. The owner or operator shall, to the extent practicable, operate the source and any associated air pollution control equipment or monitoring equipment in a manner consistent with best practicable air pollution control practices to minimize emissions during start-up and shut-down.

*Authority G.S. 143-215.3(a)(1); 143-215.107(a)(4); 143-215.107(a)(5).*

#### **SECTION .0900 - VOLATILE ORGANIC**

#### **COMPOUNDS**

##### **.0927 BULK GASOLINE TERMINALS**

(a) For the purpose of this Rule, the following definitions apply:

- (1) "Bulk gasoline terminal" means:
  - (A) breakout tanks of an interstate oil pipeline facility; or
  - (B) a gasoline storage facility which usually receives gasoline from refineries primarily by pipeline, ship, or barge; and delivers gasoline to bulk gasoline plants or to commercial or retail accounts primarily by tank truck; and has an average daily throughput of more than 20,000 gallons of gasoline.
- (2) "Gasoline" means a petroleum distillate having a Reid vapor pressure of four psia or greater.
- (3) "Breakout tank" means a tank used to:
  - (A) relieve surges in a hazardous liquid pipeline system, or
  - (B) receive and store hazardous liquids transported by pipeline for reinjection and continued transport by pipeline.

(b) This Rule applies to bulk gasoline terminals and the appurtenant equipment necessary to load the tank truck or trailer compartments.

(c) Gasoline shall not be loaded into any tank trucks or trailers from any bulk gasoline terminal unless:

- (1) The bulk gasoline terminal is equipped with a vapor control system that prevents the emissions of volatile organic compounds from exceeding:
  - (A) 80 milligrams per liter (4.7 grains per gallon) of gasoline loaded for control systems installed before December 1, 1992 until December 1, 1995 or the next major modification, whichever occurs first; after December 1, 1995 or at the next major modification, these control systems shall prevent emissions of volatile organic compounds from exceeding 35 milligrams per liter of gasoline loaded;
  - (B) 35 milligrams per liter for control systems installed after December 1, 1992; and that is properly installed, in good working order, and in operation. The owner or operator shall obtain from the manufacturer and maintain in his records a pre-installation certification stating the vapor control efficiency of the system in use;
- (2) Displaced vapors and gases are vented only to the vapor control system or to a flare;
- (3) A means is provided to prevent liquid drainage from the loading device when it is not in use or to accomplish complete drainage before the loading device is disconnected; and

- (4) All loading and vapor lines are equipped with fittings which make vapor-tight connections and which are automatically and immediately closed upon disconnection.
- (d) Sources regulated by Paragraph (b) of this Rule shall not:
  - (1) allow gasoline to be discarded in sewers or stored in open containers or handled in any manner that would result in evaporation, or
  - (2) allow the pressure in the vapor collection system to exceed the tank truck or trailer pressure relief settings.
- (e) The owner or operator of a bulk gasoline terminal shall paint all tanks used for gasoline storage white or silver at the next scheduled painting or by December 1, 2002, whichever occurs first.
- (f) The owner or operator of a bulk gasoline terminal shall install on each external floating roof tank with an inside diameter of 100 feet or less used to store gasoline a self-supporting roof, such as a geodesic dome, at the next time that the tank is taken out of service or by December 1, 2002, whichever occurs first.
- (g) The following equipment shall be required on all new tanks storing gasoline at a bulk gasoline terminal when put into service and shall be required on all existing tanks storing gasoline at a bulk gasoline terminal by December 1, 1995:
  - (1) rim-mounted secondary seals on all external and internal floating roof tanks,
  - (2) welded seams where possible, otherwise gaskets on roof and deck fittings, and
  - (3) floats in the slotted guide poles with a gasket around the cover of the poles.
- (h) If, upon facility or operational modification of a bulk gasoline terminal that existed before December 1, 1992, an increase in benzene emissions results such that:
  - (1) emissions of volatile organic compounds increase by more than 25 tons cumulative at any time during the five years following modifications; and
  - (2) annual emissions of benzene from the cluster where the bulk gasoline terminal is located (including the pipeline and marketing terminals served by the pipeline) exceed benzene emissions from that cluster based upon calendar year 1991 gasoline throughput and application of the requirements of this Subchapter,

the annual increase in benzene emissions due to the modification shall be offset within the cluster by reduction in benzene emissions beyond that otherwise achieved as a result of compliance with this Rule, in the ratio of at least 1.3 to 1.
- (i) The owner or operators of a bulk gasoline terminal that has been permitted before December 1, 1992, to emit toxic air pollutants under 15A NCAC ~~2H-0610~~ 2Q .0700 to comply with Section .1100 of this Subchapter shall continue to adhere to all terms and conditions of the permit issued under 15A NCAC ~~2H-0610~~ 2Q .0700 and to bring the terminal into compliance with Section .1100 of this

Subchapter in accordance with the terms and conditions of the permit, in which case the bulk gasoline terminal shall continue to need a permit to emit toxic air pollutants and shall be exempted from Paragraphs (e) through (h) of this Rule.

(j) Within one year after December 1, 1996, the Director shall determine the incremental ambient benzene levels at the fence line of any bulk gasoline terminal cluster resulting from benzene emissions from such cluster and shall report his findings to the Commission.

(k) The owner or operator of any bulk gasoline terminal subject to this Rule that begins construction or is in operation before December 1, 1992, shall submit:

- (1) documentation that the control system meets the limit of 35 milligrams per liter required under Paragraph (c) of this Rule and that the requirements of Paragraph (g) of this Rule have been met, or
- (2) a compliance schedule by which the bulk gasoline terminal shall come into compliance by December 1, 1995, with Paragraphs (c) or (g) of this Rule.

(l) The owner or operator of a bulk gasoline terminal shall not load, or allow to be loaded, gasoline into any truck tank or trailer unless the truck tank or trailer has been certified leak tight in accordance with Rule .0932 of this Section within the last 12 months.

*Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5).*

## **SECTION .1100 - CONTROL OF TOXIC AIR POLLUTANTS**

### **.1102 APPLICABILITY**

(a) The toxic air pollutant rules in this Section apply to all facilities that emit a toxic air pollutant that are required to have permit under 15A NCAC ~~2H-0610~~ 2Q .0700.

(b) Sources at facilities subject to this Section shall comply with the requirements of this Section as well as with any applicable requirements in Sections .0500, .0900, and .1200.

*Authority G.S. 143-215.3(a)(1); 143-215.107(a)(1), (3), (4), (5); 143B-282; S.L. 1989, c. 168, s. 45.*

### **.1103 DEFINITION**

For the purpose of this Section, the following definitions apply:

- (1) ~~(2)~~ "Asbestos" means asbestos fibers as defined in 40 CFR 61.141.
- (2) "CAS Number" means the Chemical Abstract Service registry number identifying a particular substance.
- (3) "Cresol" means o-cresol, p-cresol, m-cresol or any combination of these compounds.
- (4) "GACT" means any generally available control technology emission standard applied to an area source or facility pursuant to Section 112 of the federal Clean Air Act.

- (5) "Hexane isomers except n-hexane" means 2-methyl pentane, 3-methyl pentane, 2,2-dimethyl butane, 2,3-dimethyl butane, or any combination of these compounds.
- (6) "MACT" means any maximum achievable control technology emission standard applied to a source or facility pursuant to Section 112 of the federal Clean Air Act.
- (7) "Polychlorinated biphenyls" means any chlorinated biphenyl compound or mixture of chlorinated biphenyl compounds.

- (8) ~~(+)~~ "Toxic air pollutant" means any of those carcinogens chronic toxicants, acute systemic toxicants, or acute irritants ~~that are~~ listed in Rule .1104 of this Section.

*Authority G.S. 143-213; 143-215.3(a)(1); 143B-282; S.L. 1989, c. 168, s. 45.*

#### **.1104 TOXIC AIR POLLUTANT GUIDELINES**

(a) A facility shall not emit any of the following toxic air pollutants in such quantities that may cause or contribute beyond the premises (adjacent property boundary) to any significant ambient air concentration that may adversely affect human health. In determining these significant ambient air concentrations, the Division shall be guided by the following list of acceptable ambient levels in milligrams per cubic meter at 77° F (25° C) and 29.92 inches (760 mm) of mercury pressure (except for asbestos):

<u>Pollutant (CAS Number)</u>	<u>Annual (Carcinogens)</u>	<u>24-hour (Chronic Toxicants)</u>	<u>1-hour (Acute Systemic Toxicants)</u>	<u>15-minute 1-hour (Acute Irritants)</u>
<del>(+)</del> acetaldehyde (75-07-0)				27
<del>(2)</del> acetic acid (64-19-7)				3.7
<del>(3)</del> acrolein (107-02-8)				0.08
acrylonitrile (107-13-1)	1.5 x 10 <sup>-4</sup>			
<del>(4)</del> ammonia (7664-41-7)				2.7
ammonium chromate (7788-98-9)		6.2 x 10 <sup>-4</sup>		
ammonium dichromate (7789-09-5)		6.2 x 10 <sup>-4</sup>		
<del>(5)</del> aniline (62-53-3)			1	
<del>(6)</del> arsenic and inorganic arsenic compounds	2.3 x 10 <sup>-7</sup>			
<del>(7)</del> asbestos (1332-21-4)	2.8 x 10 <sup>-11</sup> fibers/ml			
<del>(8)</del> aziridine (151-56-4)		0.006		
benzene (71-43-2)	1.2 x 10 <sup>-4</sup>			
<del>(9)</del> benzidine and salts (92-87-5)	1.5 x 10 <sup>-8</sup>			
<del>(+0)</del> benzo(a)pyrene (50-32-8)	3.3 x 10 <sup>-5</sup>			
<del>(+1)</del> benzyl chloride (100-44-7)			0.5	
<del>(+2)</del> beryllium (7440-41-7)	4.1 x 10 <sup>-6</sup>			
<del>(+3)</del> beryllium chloride (7787-47-5)	4.1 x 10 <sup>-6</sup>			

**PROPOSED RULES**

Pollutant (CAS Number)	Annual (Carcinogens)	24-hour (Chronic Toxicants)	1-hour (Acute Systemic Toxicants)	<del>15-minute</del> 1-hour (Acute Irritants)
<del>(14)</del> beryllium fluoride (7787-49-7)	$4.1 \times 10^{-6}$			
<del>(15)</del> beryllium nitrate (13597-99-4)	$4.1 \times 10^{-6}$			
<del>(16)</del> bis-chloromethyl ether (542-88-1)	$3.7 \times 10^{-7}$			
<del>(17)</del> bromine (7726-95-6)				0.2
1,3-butadiene (106-99-0)	$1.7 \times 10^{-4}$			
<del>(18)</del> cadmium (7440-43-9)	$5.5 \times 10^{-6}$			
<del>(19)</del> cadmium acetate (543-90-8)	$5.5 \times 10^{-6}$			
<del>(20)</del> cadmium bromide (7789-42-6)	$5.5 \times 10^{-6}$			
calcium chromate (13765-19-0)	$8.3 \times 10^{-8}$			
<del>(21)</del> carbon disulfide (75-15-0)		0.186		
carbon tetrachloride (56-23-5)	$6.7 \times 10^{-3}$			
<del>(22)</del> chlorine (7782-50-5)		0.0375		0.9
<del>(23)</del> chlorobenzene (108-90-7)		2.2		
chloroform (67-66-3)	$4.3 \times 10^{-3}$			
<del>(24)</del> chloroprene (126-99-8)		0.44	3.5	
chromic acid (7738-94-5)		$6.2 \times 10^{-4}$		
chromium (VI)	$8.3 \times 10^{-8}$			
<del>(25)</del> cresol (1319-77-3)			2.2	
<del>(26)</del> p-dichlorobenzene (106-46-7)				66
<del>(27)</del> dichlorodifluoromethane (75-71-8)		248		
<del>(28)</del> dichlorofluoromethane (75-43-4)		0.5		
<del>(29)</del> di(2-ethylhexyl)phthalate (117-81-7)		0.03		
<del>(30)</del> dimethyl sulfate (77-78-1)		0.003		
<del>(31)</del> 1,4-dioxane (123-91-1)		0.56		
<del>(32)</del> epichlorohydrin (106-89-8)	$8.3 \times 10^{-2}$			
<del>(33)</del> ethyl acetate (141-78-6)			140	
<del>(34)</del> ethylenediamine (107-15-3)		0.3	2.5	

**PROPOSED RULES**

<u>Pollutant (CAS Number)</u>	<u>Annual (Carcinogens)</u>	<u>24-hour (Chronic Toxicants)</u>	<u>1-hour (Acute Systemic Toxicants)</u>	<u>15-minute 1-hour (Acute Irritants)</u>
(35) ethylene dibromide (106-93-4)	4.0 x 10 <sup>-4</sup>			
(36) ethylene dichloride (107-06-2)	3.8 x 10 <sup>-3</sup>			
(37) ethylene glycol monoethyl ether (110-80-5)		0.12	1.9	
ethylene oxide (75-21-8)	2.7 x 10 <sup>-5</sup>			
(38) ethyl mercaptan (75-08-1)			0.1	
(39) fluorides		0.016	0.25	
(40) formaldehyde (50-00-0)				0.015
(41) hexachlorocyclopentadiene (77-47-4)		0.0006	0.01	
(42) hexachlorodibenzo-p-dioxin (57653-85-7)	7.6 x 10 <sup>-8</sup>			
(43) n-hexane (110-54-3)		1.1		
(44) hexane isomers except n- hexane				360
(45) hydrazine (302-01-2)		0.0006		
(46) hydrogen chloride (7647-01-0)				0.7
(47) hydrogen cyanide (74-90-8)		0.14	1.1	
(48) hydrogen fluoride (7664-39-3)		0.03		0.25
(49) hydrogen sulfide (7783-06-4)				2.1
(50) maleic anhydride (108-31-6)		0.012	0.1	
(51) manganese and compounds		0.031		
(52) manganese cyclopentadienyl tricarbonyl (12079-65-1)		0.0006		
(53) manganese tetroxide (1317-35-7)		0.0062		
(54) mercury, alkyl		0.00006		
(55) mercury, aryl and inorganic compounds		0.0006		
(56) mercury, vapor (7439-97-6)		0.0006		
(57) methyl chloroform (71-55-6)		12		245

**PROPOSED RULES**

<u>Pollutant (CAS Number)</u>	<u>Annual (Carcinogens)</u>	<u>24-hour (Chronic Toxicants)</u>	<u>1-hour (Acute Systemic Toxicants)</u>	<u><del>15-minute</del> 1-hour (Acute Irritants)</u>
<u>methylene chloride (75-09-2)</u>	$2.4 \times 10^{-2}$		<u>1.7</u>	
<del>(58)</del> <u>methyl ethyl ketone (78-93-3)</u>		3.7		88.5
<del>(59)</del> <u>methyl isobutyl ketone (108-10-1)</u>		2.56		30
<del>(60)</del> <u>methyl mercaptan (74-93-1)</u>			0.05	
<del>(61)</del> <u>nickel carbonyl (13463-39-3)</u>		0.0006		
<del>(62)</del> <u>nickel metal (7440-02-0)</u>		0.006		
<del>(63)</del> <u>nickel, soluble compounds, as nickel</u>		0.0006		
<del>(64)</del> <u>nickel subsulfide (12035-72-2)</u>	$2.1 \times 10^{-6}$			
<del>(65)</del> <u>nitric acid (7697-37-2)</u>				1
<del>(66)</del> <u>nitrobenzene (98-95-3)</u>		0.06	0.5	
<del>(67)</del> <u>N-nitrosodimethylamine (62-75-9)</u>	$5.0 \times 10^{-5}$			
<del>(68)</del> <u>pentachlorophenol (87-86-5)</u>		0.003	0.025	
<u>perchloroethylene (127-18-4)</u>	$1.9 \times 10^{-1}$			
<u>phenol (108-95-2)</u>			0.95	
<del>(70)</del> <u>phosgene (75-44-5)</u>		0.0025		
<del>(71)</del> <u>phosphine (7803-51-2)</u>				0.13
<del>(72)</del> <u>polychlorinated biphenyls (1336-36-3)</u>	$8.3 \times 10^{-5}$			
<u>potassium chromate (7789-00-6)</u>		$6.2 \times 10^{-4}$		
<u>potassium dichromate (7778-50-9)</u>		$6.2 \times 10^{-4}$		
<u>sodium chromate (7775-11-3)</u>		$6.2 \times 10^{-4}$		
<u>sodium dichromate (10588-01-9)</u>		$6.2 \times 10^{-4}$		
<u>strontium chromate (7789-06-2)</u>	$8.3 \times 10^{-8}$			
<del>(73)</del> <u>styrene (100-42-5)</u>			10.6	
<del>(74)</del> <u>sulfuric acid (7664-93-9)</u>		0.012	0.1	
<u>tetrachlorodibenzo-p-dioxin (1746-01-6)</u>	$3.0 \times 10^{-9}$			



Pollutant (CAS Number)	Annual (Carcinogens)	24-hour (Chronic Toxicants)	1-hour (Acute Systemic Toxicants)	15-minute 1-hour (Acute Irritants)
(75) 1,1,1,2-tetrachloro-2,2,- difluoroethane (76-11-9)		52		
(76) 1,1,2,2-tetrachloro-1,2- difluoroethane (76-12-0)		52		
(77) 1,1,1,2,2-tetrachloroethane (79-34-5)	6.3 x 10 <sup>-3</sup>			
(78) toluene (108-88-3)		4.7		56
(79) toluene-2,4-diisocyanate toluene diisocyanate, 2,4- (584-84- 9) and 2,6- (91-08-7) isomers		0.0005 0.0002		0.015
trichloroethylene (79-01-6)	5.9 x 10 <sup>-2</sup>			
(80) trichlorofluoromethane (75-69-4)		560		
(81) 1,1,2-trichloro-1,2,2- trifluoroethane (76-13-1)				950
(82) vinyl chloride (75-01-4)	3.8 x 10 <sup>-4</sup>			
(83) vinylidene chloride (75-35-4)		0.12		
(84) xylene (1330-20-7)		2.7		65
zinc chromate (13530-65-9)	8.3 x 10 <sup>-8</sup>			

Authority G.S. 143-215.3(a)(1); 143-215.107(a)(3), (4), (5); 143B-282; S.L. 1989, c. 168, s. 45.

**.1106 DETERMINATION OF AMBIENT AIR CONCENTRATION**

(a) Modeling shall not be used for enforcement. Modeling shall be used to determine process operational and air pollution control parameters and emission rates for toxic air pollutants to place in the air quality permit for that facility that will prevent any of the acceptable ambient levels in Rule .1104 of this Section from being exceeded, with such exceptions as may be allowed under 15A NCAC 2Q .0700. ~~2H .0610~~. Enforcing these permit stipulations and conditions shall be the mechanism used to ensure that the requirements of Rule .1104 of this Section, with such exceptions as may be allowed by 15A NCAC 2Q .0700, ~~2H .0610~~, are met.

(b) The owner or operator of the facility may request the Division to perform a modeling analysis of the facility or provide the analysis himself. If the owner or operator of the facility requests the Division to perform the modeling analysis, he shall provide emissions rates, stack parameters, and other information that the Division needs to do the modeling. The data that the owner or operator of the facility provides the Division to use in the model or in deriving the

data used in the model shall be the process, operational and air pollution control equipment parameters and emission rates that will be contained in the facility's permit. If the Division's initial review of the modeling request indicates extensive or inappropriate use of state resources or if the Division's modeling analysis fails to show compliance with the acceptable ambient levels in Rule .1104 of this Section, the modeling demonstration becomes the responsibility of the owner or operator of the facility.

~~(b) (c) The~~ When the owner or operator of the facility shall be is responsible for providing the modeling demonstration and the data used in the ~~model~~. ~~The modeling,~~ the owner or operator of the facility shall use in the model or in deriving data used in the model the process operational and air pollution control equipment parameters and emission rates that will be contained in his permit. Sources that are not required to be included in the model will not be included in the permit to emit toxic air pollutants.

(d) For the following pollutants, modeled emission rates will be based on the highest emissions occurring in any single 15 minute period. The resultant modeled 1-hour

concentrations are then compared to the applicable 1-hour acceptable ambient levels to determine compliance. These pollutants are:

- (1) acetaldehyde (75-07-0)
- (2) acetic acid (64-19-7)
- (3) acrolein (107-02-8)
- (4) ammonia (7664-41-7)
- (5) bromine (7726-95-6)
- (6) chlorine (7782-50-5)
- (7) formaldehyde (50-00-0)
- (8) hydrogen chloride (7647-01-0)
- (9) hydrogen fluoride (7664-39-3)
- (10) nitric acid (7697-37-2)

(e) The owner or operator of the facility and the Division may use any model allowed by 40 CFR 51.166(l) provided that the model is appropriate for the facility being modeled. The owner or operator or the Division may use a model other than one allowed by 40 CFR 51.166(l) provided that the model is equivalent and the use of the model is approved by the Director. ~~director~~. Regardless of model used, the owner or operator and the Division shall model for cavity effects and shall comply with the modeling requirements for stack height set out in Rule .0533 of this Subchapter.

(f) (i) Ambient air concentrations are to be evaluated for annual periods over a calendar year, for 24-hour periods from midnight to midnight, and for one-hour periods beginning on the hour, hour, and for 15-minute periods beginning on the hour or 15, 30, or 45 minutes after the hour.

(g) The owner or operator of the facility shall identify each toxic air pollutant emitted and its corresponding emission rate using mass balancing analysis, source testing, or other methods acceptable to the Director. ~~director~~.

(h) The owner or operator of the facility shall submit a modeling plan to the Director ~~director~~ and shall have received approval of that plan from the Director ~~director~~ before submitting a modeling demonstration to the Director. ~~director~~. The modeling plan shall include:

- (1) a diagram of the plant site, including locations of all stacks and associated buildings;
- (2) on-site building dimensions;
- (3) a diagram showing property boundaries, including a scale, key and north indicator;
- (4) the location of the site on a United States Geological Survey (USGS) map;
- (5) discussion calculation of good engineering stack height and building wake effects for each stack;
- (6) discussion of all aspects of the project not accounted for in a simple flat terrain model, including cavity calculations, impact on rolling and complex terrain, building wake effects, and urban/rural considerations;
- (7) discussion of reasons for model selection;
- (8) discussion of meteorological data to be used; and
- (9) discussion of sources emitting the pollutant that are not to be included in the model with an explanation of why they are being excluded (i.e. why the source

will not affect the modeling analysis); and  
(9) (10) any other pertinent information.

Authority G.S. 143-215.3(a)(1); 143-215.107(a)(3), (5); 143B-282; S.L. 1989, c. 168, s. 45.

#### .1109 112(j) CASE-BY-CASE MAXIMUM ACHIEVABLE CONTROL TECHNOLOGY

(a) Applicability. This Rule applies only to sources of hazardous air pollutants required to have a permit under 15A NCAC 2Q .0500.

(b) Effective. This Rule shall apply only after it and 15A NCAC 2Q .0500 have been approved by the EPA.

(c) Definitions. For the purposes of this Rule the following definitions apply:

- (1) "Control technology" means measures, processes, methods, systems, or techniques to limit the emission of hazardous air pollutants including measures that:
  - (A) reduce the quantity, or eliminate emissions, of such pollutants through process changes, substitution of materials, or other modifications;
  - (B) enclose systems or processes to eliminate emissions;
  - (C) collect, capture, or treat such pollutants when released from a process, stack, storage, or fugitive emission point;
  - (D) are design, equipment, work practice, or operational standards (including requirements for operator training or certification) as provided in 42 USC 7412(h); or
  - (E) are a combination of Parts (A) through (D) of this definition.
- (2) "Emission point" means any part or activity of a facility that emits or has the potential to emit, under current operational design, any hazardous air pollutants.
- (3) "Emission unit" means any building, structure, facility, or installation. This could include an emission point or collection of emission points, within a major source, which the Director determines is the appropriate entity for making a MACT determination under Section 112 (j) of the federal Clean Air Act, i.e., any of the following:
  - (A) an emission point that can be individually controlled;
  - (B) the smallest grouping of emission points, that when collected together can be commonly controlled by a single control device or work practice;
  - (C) any grouping of emission points, that, when collected together can be commonly controlled by a single control device or work practice;
  - (D) a grouping of emission points that are functionally related. Equipment is

functionally related if the operation or action for which the equipment was specifically designed could not occur without being connected with or without relying on the operation of another piece of equipment:

- (E) the entire geographical entity comprising a major source in a source category subject to a MACT determination under Section 112 (j) of the federal Clean Air Act.
- (3) (4) "EPA" means the United States Environmental Protection Agency or the Administrator of U.S. Environmental Protection Agency.
- (4) (5) "Existing facility" means a facility for which construction is commenced before EPA proposed a standard, applicable to the facility, under Section 112(d) or (h) of the federal Clean Air Act, or if no proposal was published, then on or before the Section 112(j) deadline.
- (5) (6) "Existing source" means a source, construction or reconstruction of which is commenced before EPA proposed a standard, applicable to the source, under Section 112(d) or (h) of the federal Clean Air Act, or if no proposal was published, then on or before the Section 112(j) deadline.
- (6) (7) "Hazardous air pollutant" means any pollutant listed under Section 112(b) of the federal Clean Air Act.
- (7) (8) "MACT" means maximum achievable control technology.
- (8) (9) "Maximum achievable control technology" means:
- (A) for existing sources,
- (i) a MACT standard that EPA has proposed or promulgated for a particular category of facility or source,
- (ii) the average emission limitation achieved by the best performing 12 percent of the existing facilities or sources for which EPA has emissions information if the particular category of source contains 30 or more sources, or
- (iii) the average emission limitation achieved by the best performing five facilities or sources for which EPA has emissions information if the particular category of source contains fewer than 30 sources, or
- (B) for new sources, the maximum degree of reduction in emissions that is deemed achievable but not less stringent than the emission control that is achieved in practice by the best controlled similar source.
- (9) (10) "MACT floor" means:
- (A) for existing sources:

- (i) the average emission limitation achieved by the best performing 12 percent of the existing sources in the United States (for which EPA has emissions information) excluding those sources that have, within 18 months before the emission standard is proposed or within 30 months before such standard is promulgated, whichever is later, first achieved a level of emission rate or emission reduction which complies, or would comply if the source is not subject to such standard, with the lowest achievable emission rate (as defined in Section 171 of the federal Clean Air Act) applicable to the source category or subcategory for categories and subcategories with 30 or more sources, or

- (ii) the average emission limitation achieved by the best performing five sources in the United States (for which EPA has emissions or reasonably could obtain emission information) in the category or subcategory of sources with fewer than 30 sources;

- (B) for new sources, the emission limitation achieved in practice by the best controlled similar source.

~~(10) "Modification" means any physical change in, or change in the method of operation of, a facility which increases the actual emissions of any hazardous air pollutant emitted by that facility by more than a de minimis amount specified in 40 CFR Part 63 or which results in the emissions of any hazardous air pollutant not previously emitted by that facility by more than a de minimis amount specified in 40 CFR Part 63.~~

(11) "New emission unit" means an emission unit for which construction or reconstruction is commenced after the section 112(j) of the federal Clean Air Act deadline, or after proposal of a relevant standard under section 112(d) or section 112(h) of the federal Clean Air Act (as amended in 1990), whichever comes first, except that, as provided by 40 CFR 63.52(f)(1), an emission unit, at a major source, for which construction or reconstruction is commenced before the date upon which the area source becomes a major source, shall not be considered a new emission unit if, after the addition of such emission unit, the source is still an area source.

(11) (12) "New facility" means a facility for which construction is commenced after the Section 112(j) deadline, or after proposal of a relevant standard

under Section 112(d) or (h) of the federal Clean Air Act, whichever comes first.

- (+12) (13) "New source" means a source for which construction or reconstruction is commenced after the Section 112(j) deadline, or after proposal of a relevant standard under Section 112(d) or (h) of the federal Clean Air Act, whichever comes first.
- (+13) (14) "Section 112(j) deadline" means the date occurring 18 months after the scheduled promulgation date of a relevant standard under Section 112(e)(1) and (3) of the federal Clean Air Act. The applicable date for categories of sources is contained in the source category schedule for standards.
- (+14) (15) "Similar source" means a source that has comparable emissions and is structurally similar in design and capacity to other sources such that the source could be controlled using the same control technology.
- (+15) (16) "United States" means the United States, their possessions and territories.

(d) Missed promulgation dates: 112(j). If EPA fails to promulgate a standard for a category of source under Section 112 of the federal Clean Air Act by the date established pursuant to Sections 112(e)(1) or (3) of the federal Clean Air Act, the owner or operator of any source in such category shall submit, within 18 months after such date, a permit application, in accordance with the procedures in 15A NCAC 2Q .0526, to the Director to apply MACT to such sources. Sources subject to this Paragraph shall be in compliance with this Rule within three years from the date that the permit is issued.

(e) ~~Modifications of existing facilities: 112(g). The owner or operator of an existing facility shall apply MACT to all sources in that facility that are modified or involved in a modification. MACT for new sources shall be applied to sources at an existing facility that are constructed or reconstructed.~~

(f) (e) New facilities. The owner or operator of any new facility shall apply MACT to the new facility before beginning construction and operation.

(g) ~~Facilities subject to MACT because of increased emissions. If a facility becomes subject to the requirements of 15A NCAC 2Q .0500 because of increased emissions of hazardous air pollutants, the owner or operator of the facility shall submit a permit application in accordance with 15A NCAC 2Q .0526.~~

- (1) ~~If an existing facility becomes a major facility subject to the requirements of 15A NCAC 2Q .0500 by the addition of a source or as a result of reconstructing, that added source or reconstructed source shall comply with all requirements of this Rule that affect new sources and shall comply with new source MACT requirements before beginning operation.~~
- (2) ~~If a facility, that is constructed after the applicable MACT requirements have been triggered under~~

~~Paragraph (d) of this Rule, becomes subject to the requirements of 15A NCAC 2Q .0500 because of a relaxation of a federally enforceable emission limit on the capacity of a source to emit a hazardous air pollutant, then that source shall comply with new source MACT requirements before the date of the limit's relaxation.~~

(f) (f) Case-by-case MACT determination. The owner or operator of the source shall determine MACT according to 40 CFR 63.55(a).

(g) (g) Monitoring and recordkeeping. The owner or operator of a source subject to this Rule shall install, operate, and maintain monitoring capable of detecting deviations from each applicable emission limitation or other standards with sufficient reliability and timeliness to determine continuous compliance over the applicable reporting period. Such monitoring data may be used as a basis for enforcing emissions limitations established under this Rule.

Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5), (10).

#### .1112 112(g) CASE BY CASE MAXIMUM ACHIEVABLE CONTROL TECHNOLOGY

(a) Applicability. This Rule applies to the construction or reconstruction of major sources of hazardous air pollutants unless:

- (1) the major source has been specifically regulated or exempted from regulation under:
  - (A) Rule .1109 or .1111 of this Section, or
  - (B) a standard issued pursuant to Section 112(d), 112(h), or 112(j) of the federal Clean Air Act and incorporated in another subpart of 40 CFR Part 63, or
- (2) the owner or operator of such major source has received all necessary air quality permits for such construction or reconstruction project before July 1, 1998.

(b) Exclusions. The requirements of this Rule shall not apply to:

- (1) electric utility steam generating units unless and until such time as these units are added to the source category list pursuant to Section 112(c)(5) of the federal Clean Air Act.
- (2) stationary sources that are within a source category that has been deleted from the source category list pursuant to Section 112(c)(9) of the federal Clean Air Act.
- (3) research and development activities.

(c) Definitions. For the purposes of this Rule, the following definitions apply:

- (1) "Affected source" means the stationary source or group of stationary sources that, when fabricated (on site), erected, or installed meets the definition of "construct a major source" or the definition of "reconstruct a major source" contained in this Paragraph.
- (2) "Affected States" means all States or local air

pollution agencies whose areas of jurisdiction are:

- (A) contiguous to North Carolina and located less than  $D=Q/12.5$  from the facility, where:
    - (i)  $Q$  = emissions of the pollutant emitted at the highest permitted rate in tons per year, and
    - (ii)  $D$  = distance from the facility to the contiguous state or local air pollution control agency in miles.
  - (B) within 50 miles of the permitted facility.
- (3) "Available information" means, for purposes of identifying control technology options for the affected source, information contained in the following information sources as of the date of approval of the MACT determination by the Division:
- (A) a relevant proposed regulation, including all supporting information;
  - (B) background information documents for a draft or proposed regulation;
  - (C) data and information available from the Control Technology Center developed pursuant to Section 113 of the federal Clean Air Act;
  - (D) data and information contained in the Aerometric Informational Retrieval System including information in the MACT data base;
  - (E) any additional information that can be expeditiously provided by the Division and EPA; and
  - (F) for the purpose of determinations by the Division, any additional information provided by the applicant or others, and any additional information considered available by the Division.
- (4) "Construct a major source" means:
- (A) To fabricate, erect, or install at any greenfield site a stationary source or group of stationary sources which is located within a contiguous area and under common control and which emits or has the potential to emit 10 tons per year of any HAP's or 25 tons per year of any combination of HAP, or
  - (B) To fabricate, erect, or install at any developed site a new process or production unit which in and of itself emits or has the potential to emit 10 tons per year of any HAP or 25 tons per year of any combination of HAP, unless the process or production unit satisfies Subparts (i) through (vi) of this Paragraph:
    - (i) All HAP emitted by the process or production unit that would otherwise be controlled under the requirements of this Rule will be controlled by

emission control equipment which was previously installed at the same site as the process or production unit;

(ii) The Division:

- (I) has determined within a period of five years prior to the fabrication, erection, or installation of the process or production unit that the existing emission control equipment represented best available control technology (BACT) under Rule .0530 of this Subchapter or lowest achievable emission rate (LAER) under Rule .0531 of this Subchapter for the category of pollutants which includes those HAP's to be emitted by the process or production unit; or
  - (II) determines that the control of HAP emissions provided by the existing equipment will be equivalent to that level of control currently achieved by other well-controlled similar sources (i.e., equivalent to the level of control that would be provided by a current BACT, LAER, or MACT determination under Rule .1109 of this Section);
- (iii) The Division determines that the percent control efficiency for emissions of HAP from all sources to be controlled by the existing control equipment will be equivalent to the percent control efficiency provided by the control equipment prior to the inclusion of the new process or production unit;
- (iv) The Division has provided notice and an opportunity for public comment concerning its determination that criteria in Subparts (i), (ii), and (iii) of this Subparagraph apply and concerning the continued adequacy of any prior LAER, BACT, or MACT determination under Rule .1109 of this Section;
- (v) If any commenter has asserted that a prior LAER, BACT, or MACT determination under Rule .1109 of this Section determination is no longer adequate, the Division has determined that the level of control required by

- that prior determination remains adequate; and
- (vi) Any emission limitations, work practice requirements, or other terms and conditions upon which the above determinations by the Division are predicated will be construed by the Division as applicable requirements under Section 504(a) of the federal Clean Air Act and either have been incorporated into an existing permit issued under 15A NCAC 2Q .0500 for the affected facility or will be incorporated into such permit upon issuance.
- (5) "Control technology" means measures, processes, methods, systems, or techniques to limit the emission of hazardous air pollutants including measures that:
- (A) reduce the quantity of, or eliminate emissions of, such pollutants through process changes, substitution of materials or other modifications;
- (B) enclose systems or processes to eliminate emissions;
- (C) collect, capture or treat such pollutants when released from a process, stack, storage or fugitive emissions point;
- (D) are design, equipment, work practice, or operational standards (including requirements for operator training or certification) as provided in 42 U.S.C. 7412(h); or
- (E) are a combination of Parts (A)-(D) of this definition.
- (6) "Electric utility steam generating unit" means any fossil fuel fired combustion unit of more than 25 megawatts that serves a generator that produces electricity for sale. A unit that co-generates steam and electricity and supplies more than one-third of its potential electric output capacity and more than 25 megawatts electric output to any utility power distribution system for sale shall be considered an electric utility steam generating unit.
- (7) "Greenfield site" means a contiguous area under common control that is an undeveloped site.
- (8) "HAP" means hazardous air pollutants.
- (9) "Hazardous air pollutant" means any pollutant listed under Section 112 (b) of the federal Clean Air Act.
- (10) "List of source categories" means the source category list required by Section 112(c) of the federal Clean Air Act.
- (11) "MACT" means maximum achievable control technology.
- (12) "Maximum achievable control technology emission limitation for new sources" means the emission limitation which is not less stringent than the emission limitation achieved in practice by the best controlled similar source, and which reflects the maximum degree of reduction in emissions that the permitting authority, taking into consideration the cost of achieving such emission reduction, and any non-air quality health and environmental impacts and energy requirements, determines is achievable by the constructed or reconstructed major source.
- (13) "Process or production unit" means any collection of structures or equipment, that processes, assembles, applies, or otherwise uses material inputs to produce or store an intermediate or final product. A single facility may contain more than one process or production unit.
- (14) "Reconstruct a major source" means the replacement of components at an existing process or production unit that in and of itself emits or has the potential to emit 10 tons per year of any HAP or 25 tons per year of any combination of HAP, whenever:
- (A) The fixed capital cost of the new components exceeds 50 percent of the fixed capital cost that would be required to construct a comparable process or production unit; and
- (B) It is technically and economically feasible for the reconstructed major source to meet the applicable maximum achievable control technology emission limitation for new sources established under this Subpart.
- (15) "Research and development activities" means activities conducted at a research or laboratory facility whose primary purpose is to conduct research and development into new processes and products, where such source is operated under the close supervision of technically trained personnel and is not engaged in the manufacture of products for sale or exchange for commercial profit, except in a *de minimis* manner.
- (16) "Similar source" means a stationary source or process that has comparable emissions and is structurally similar in design and capacity to a constructed or reconstructed major source such that the source could be controlled using the same control technology.
- (d) Principles of MACT determinations. The following general principles shall be used to make a case-by-case MACT determination concerning construction or reconstruction of a major source under this Rule:
- (1) The MACT emission limitation or MACT requirements recommended by the applicant and approved by the Division shall not be less stringent than the emission control that is achieved in practice by the best controlled similar source, as determined by the Division.
- (2) Based upon available information, the MACT emission limitation and control technology (including any requirements under Subparagraph (3) of this Paragraph) recommended by the

applicant and approved by the Division shall achieve the maximum degree of reduction in emissions of HAP that can be achieved by utilizing those control technologies that can be identified from the available information, taking into consideration the costs of achieving such emission reduction and any non-air quality health and environmental impacts and energy requirements associated with the emission reduction.

- (3) The owner or operator may recommend a specific design, equipment, work practice, or operational standard, or a combination thereof, and the Director may approve such a standard if the Division specifically determines that it is not feasible to prescribe or enforce an emission limitation under the criteria set forth in Section 112(h)(2) of the federal Clean Air Act.
- (4) If the EPA has either proposed a relevant emission standard pursuant to Section 112(d) or 112(h) of the federal Clean Air Act or adopted a presumptive MACT determination for the source category that includes the constructed or reconstructed major source, then the MACT requirements applied to the constructed or reconstructed major source shall have considered those MACT emission limitations and requirements of the proposed standard or presumptive MACT determination.

(e) Effective date of MACT determination. The effective date of a MACT determination shall be the date of issuance of a permit under procedures of 15A NCAC 2Q .0300 or .0500 incorporating a MACT determination.

(f) Compliance date. On and after the date of start-up, a constructed or reconstructed major source that is subject to the requirements of this Rule shall be in compliance with all applicable requirements specified in the MACT determination.

(g) Compliance with MACT determinations. The owner or operator of a constructed or reconstructed major source that:

- (1) is subject to a MACT determination shall comply with all requirements set forth in the permit issued under 15A NCAC 2Q .0300 or .0500, including any MACT emission limitation or MACT work practice standard, and any notification, operation and maintenance, performance testing, monitoring, reporting, and recordkeeping requirements.
- (2) has obtained a MACT determination shall be deemed to be in compliance with Section 112(g)(2)(B) of the federal Clean Air Act only to the extent that the constructed or reconstructed major source is in compliance with all requirements set forth in the permit issued under 15A NCAC 2Q .0300 or .0500. Any violation of such requirements by the owner or operator shall be deemed by the Division and by EPA to be a violation of the prohibition on construction or

reconstruction in Section 112(g)(2)(B) of the federal Clean Air Act for whatever period the owner or operator is determined to be in violation of such requirements, and shall subject the owner or operator to appropriate enforcement action under the General Statutes and the federal Clean Air Act.

(h) Requirements for constructed or reconstructed major sources subject to a subsequently promulgated MACT standard or MACT requirement. If EPA promulgates an emission standard under Section 112(d) or 112(h) of the federal Clean Air Act or the Division issues a determination under Rule .1109 of this Section that is applicable to a stationary source or group of sources that would be deemed to be a constructed or reconstructed major source under this Rule:

- (1) before the date that the owner or operator has obtained a final and legally effective MACT determination under 15A NCAC 2Q .0300 or .0500, the owner or operator of the source(s) shall comply with the promulgated standard or determination rather than any MACT determination under this Rule by the compliance date in the promulgated standard.
- (2) after the source has been subject to a prior case-by-case MACT under this Rule, and the owner or operator obtained a final and legally effective case-by-case MACT determination prior to the promulgation date of such emission standard, the Division shall (if the initial permit has not yet been issued under 15A NCAC 2Q .0500) issue an initial permit that incorporates the emission standard or determination, or shall (if the initial permit has been issued under 15A NCAC 2Q .0500) revise the permit according to the reopening procedures in 15A NCAC 2Q .0517, Reopening for Cause, whichever is relevant, to incorporate the emission standard or determination.

(i) Compliance with subsequent 112 (d), 112(h), or 112 (j) standards. EPA may include in the emission standard established under Section 112(d) or 112(h) of the federal Clean Air Act a specific compliance date for those sources that have obtained a final and legally effective MACT determination under this Rule and that have submitted the information required by 40 CFR 63.43 to EPA before the close of the public comment period for the standard established under section 112(d) of the federal Clean Air Act. Such date shall assure that the owner or operator shall comply with the promulgated standard as expeditiously as practicable, but not longer than eight years after such standard is promulgated. In that event, the Division shall incorporate the applicable compliance date in the permit issued under 15A NCAC 2Q .0500. If no compliance date has been established in the promulgated 112(d) or 112(h) standard or determination under Rule .1109 of this Section, for those sources that have obtained a final and legally effective MACT determination under this Rule, then the Director shall establish a compliance



date in the permit that assures that the owner or operator shall comply with the promulgated standard or determination as expeditiously as practicable, but not longer than eight years after such standard is promulgated or a determination is made under Rule .1109 of this Section.

(j) Revision of permit to incorporate less stringent control. Notwithstanding the requirements of Paragraph (h) of this Rule, if the Administrator of EPA promulgates an emission standard under Section 112(d) or Section 112(h) of the federal Clean Air Act or the Division issues a determination under Rule .1109 of this Section that is applicable to a stationary source or group of sources that was deemed to be a constructed or reconstructed major source under this Rule and that is the subject of a prior case-by-case MACT determination pursuant to 40 CFR 63.43, and the level of control required by the emission standard issued under Section 112(d) or 112(h) or the determination issued under Rule .1109 of this Section is less stringent than the level of control required by any emission limitation or standard in the prior MACT determination, the Division is not required to incorporate any less stringent terms of the promulgated standard in the permit issued under 15A NCAC 2Q .0500 applicable to such source(s) and may consider any more stringent provisions of the prior MACT determination to be applicable legal requirements when issuing or revising such an operating permit.

Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5), (10).

## SECTION .1200 - CONTROL OF EMISSIONS FROM INCINERATORS

### .1201 PURPOSE AND SCOPE

(a) This Section sets forth rules for the control of the emissions of air pollutants from incinerators.

(b) The rules in this Section apply to all types of incinerators as defined by 15A NCAC 2D .0101(19), including incinerators with heat recovery and industrial incinerators. The rules in this Section do not apply to afterburners, flares, fume incinerators, and other similar devices used to reduce the emissions of air pollutants from processes, whose emissions shall be regulated as process emissions.

(c) This Section does not apply to any boilers or industrial furnaces that burn waste as a fuel.

(d) This Section does not apply to air curtain burners, which shall comply with Section .1900 of this Subchapter.

(e) This Section does not apply to incinerators used to dispose of dead animals or poultry that meet the following requirements:

- (1) The incinerator is located on a farm and is owned and operated by the farm owner or by the farm operator;
- (2) The incinerator is used solely to dispose of animals or poultry originating on the farm where the incinerator is located;
- (3) The incinerator is not charged at a rate that exceeds

its design capacity; and

- (4) The incinerator complies with Rule .0521 (visible emissions) and .0522 (odorous emissions) of this Subchapter.

(f) If the incinerator is used solely to cremate pets or if the emissions of all toxic air pollutants from an incinerator and associated waste handling and storage are less than the levels listed in 15A NCAC ~~2H .0610(h)~~, 2Q .0711, the incinerator shall be exempt from Rules .1205(f) through (p), and .1206 of this Section. Sewage sludge incinerators, sludge incinerators and municipal waste combustors at small and large municipal waste combustor plants are not eligible for exemption under this Paragraph.

(g) If an incinerator can be defined as being more than one type of incinerator, then the following order shall be used to determine the standards and requirements to apply: hazardous waste incinerators, sewage sludge incinerators, sludge incinerators, municipal waste combustor at a large or small municipal waste combustor plant, medical waste incinerators, crematory incinerators, and other incinerators.

Authority G.S. 143-215.3(a)(1); 143-215.107(a)(1), (3), (4), (5).

### .1205 EMISSION STANDARDS

(a) The emission standards in this Rule apply to all incinerators except where Rule .0524, .1110, or .1111 of this Subchapter applies except that Subparagraphs(p)(2) and (4) of this Rule shall control in any event.

(b) Particulate matter.

- (1) Hazardous waste incinerators shall meet the particulate matter requirements of 40 CFR 264.343(c).
- (2) The emissions of particulate matter from each municipal waste combustor located at a small municipal waste combustor plant shall not exceed 70 milligrams per dry standard cubic meter, corrected to seven percent oxygen.
- (3) The emissions of particulate matter from each municipal waste combustor located at a large municipal waste combustor plant shall not exceed 27 milligrams per dry standard cubic meter corrected to seven percent oxygen.
- (4) Conical incinerators covered by Rule .0523 of this Subchapter shall comply with that Rule instead of this Paragraph.
- (5) Any incinerators not covered under Subparagraphs (1), (2), (3), or (4) of this Paragraph shall comply with one of the following emission standards for particulate matter:
  - (A) The emission of particulate matter from any stack or chimney of an incinerator shall not exceed:

Refuse Charge In Lb/Hour	Allowable Emission Rate For Particulate Matter In Lb/Hour
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0 to 100	0.2
200	0.4
500	1.0
1,000	2.0
2,000 and Above	4.0

For a refuse charge between any two consecutive rates stated in the preceding table, the allowable emissions rate for particulate matter shall be calculated by the equation  $E = 0.002P$ . E=allowable emission rate for particulate matter in lb/hour. P=refuse charge in lb/hour.

- (B) Instead of meeting the standards in Part (b)(5)(A) of this Rule, the owner or operator of an incinerator may choose to limit particulate emissions from the incinerator to 0.08 grains per dry standard cubic foot corrected to 12 percent carbon dioxide. In order to choose this option, the owner or operator of the incinerator shall demonstrate that the particulate ambient air quality standards will not be violated. To correct to 12 percent carbon dioxide, the measured concentration of particulate matter is multiplied by 12 and divided by the measured percent carbon dioxide.

(c) Sulfur dioxide.

- (1) The emissions of sulfur dioxide from each municipal waste combustor located at a small municipal waste combustor plant shall be reduced by at least 50 percent by weight or volume or to no more than 80 parts per million by volume corrected to seven percent oxygen (dry basis), whichever is less stringent. Compliance with this emission limit is based on a 24-hour daily geometric mean.
- (2) The emissions of sulfur dioxide from each municipal waste combustor located at a large municipal waste combustor plant shall be reduced by at least 75 percent by weight or volume or to no more than 31 parts per million by volume corrected to seven percent oxygen (dry basis), whichever is less stringent. Compliance with this emission limit is based on a 24-hour daily geometric mean.
- (3) Any incinerator not covered under Subparagraphs (1) and (2) of this Paragraph shall comply with Rule .0516 of this Subchapter.

(d) Visible emissions.

- (1) The emission limit of opacity from each municipal waste combustor located at a small or large municipal waste combustor plant shall not exceed 10 percent (6-minute average).
- (2) Air curtain incinerators shall comply with Rule .1904 of this Subchapter.
- (3) Any incinerator not covered under Paragraphs (1) and (2) of this Paragraph shall comply with Rule

.0521 of this Subchapter.

- (e) Odorous emissions. Incinerators shall comply with Rule .0522 of this Subchapter.

(f) Hydrogen chloride.

- (1) The emissions of hydrogen chloride from each municipal waste combustor at small municipal waste combustor plants shall be reduced by at least 50 percent by weight or volume or to no more than 250 parts per million by volume corrected to seven percent oxygen (dry basis), whichever is less stringent.
- (2) The emissions of hydrogen chloride from each municipal waste combustor at large municipal waste combustor plants shall be reduced by at least 95 percent by weight or volume or to no more than 31 parts per million by volume, corrected to seven percent oxygen (dry basis), whichever is less stringent.
- (3) Hazardous waste incinerators shall meet the hydrogen chloride emissions requirements of 40 CFR 264.343(b).
- (4) Emissions of hydrogen chloride from all other incinerators shall not exceed four pounds per hour unless it is reduced by at least 90 percent by weight or to no more than 50 parts per million by volume corrected to seven percent oxygen (dry basis).

(g) Mercury emissions.

- (1) Emissions of mercury from each municipal waste combustor at a small or large municipal waste combustor plant shall be reduced by at least 85 percent by weight or shall not exceed 0.08 milligrams per dry standard cubic meter, corrected to seven percent oxygen, whichever is less stringent.
- (2) Emissions of mercury from sludge incinerators and sewage sludge incinerators are regulated under 15A NCAC 2D .1110.
- (3) Emissions of mercury and mercury compounds from the stack or chimney of a hazardous waste incinerator, medical waste incinerator, or any other type incinerator shall not exceed 0.032 pounds per hour.

- (h) Beryllium Emissions. Beryllium emissions from sludge incinerators and sewage sludge incinerators shall comply with 15A NCAC .1110 of this Subchapter.

(i) Lead Emissions.

- (1) Emissions of lead from each municipal waste combustor at a small municipal waste combustor plant shall not exceed 1.6 milligrams per dry standard cubic meter, corrected to seven percent oxygen.
- (2) Emissions of lead from each municipal waste combustor at a large municipal waste combustor plant shall not exceed 0.49 milligrams per dry standard cubic meter, corrected to seven percent oxygen.

- (3) The daily concentration of lead in sewage sludge fed to a sewage sludge incinerator shall meet the requirements specified in 40 CFR 503.43(c).
- (j) Cadmium Emissions.
- (1) Emissions of cadmium from each municipal waste combustor at a small municipal waste combustor plant shall not exceed 0.10 milligrams per dry standard cubic meter, corrected to seven percent oxygen.
  - (2) Emissions of cadmium from each municipal waste combustor at a large municipal waste combustor plant shall not exceed 0.040 milligrams per dry standard cubic meter, corrected to seven percent oxygen.
- (k) Other Metal Emissions. The daily concentration of arsenic, cadmium, chromium, and nickel in sewage sludge fed to a sewage sludge incinerator shall meet the requirements specified in 40 CFR 503.43(d).
- (l) The owner or operator of an incinerator shall demonstrate compliance with Section .1100 of this Subchapter in accordance with 15A NCAC ~~2H-0610~~ 2Q .0700.
- (m) Dioxins and Furans.
- (1) The emissions of dioxins and furans from each municipal waste combustor located at a small municipal waste combustor plant shall not exceed 125 nanograms per dry standard cubic meter (total mass) corrected to seven percent oxygen.
  - (2) The emissions of dioxins and furans from each municipal waste combustor located at a large municipal waste combustor plant shall not exceed:
    - (A) 60 nanograms per dry standard cubic meter (total mass) corrected to seven percent oxygen for facilities that employ an electrostatic precipitator-based emission control system, or
    - (B) 30 nanograms per dry standard cubic meter (total mass) corrected to seven percent oxygen for facilities that do not employ an electrostatic precipitator-based emission control system.
- (n) Nitrogen oxide. The emissions of nitrogen oxide from each municipal waste combustor located at a large municipal waste combustor plant shall not exceed the emission limits in Table 1 of Paragraph (d) of 40 CFR 60.33b. Nitrogen oxide emissions averaging is allowed as specified in Paragraphs (d)(1)(i) through (d)(1)(v) of 40 CFR 60.33b. Nitrogen oxide emissions control is not required for municipal waste combustors located at small municipal waste combustor plants.
- (o) Fugitive ash.
- (1) On or after the date on which the initial performance test is completed, no owner or operator of a municipal waste combustor located at a small or large municipal waste combustor plant shall cause to be discharged to the atmosphere visible emissions of combustion ash from an ash conveying system (including conveyor transfer

points) in excess of five percent of the observation period (i.e., nine minutes per three-hour period), as determined by EPA Reference Method 22 observations as specified in 40 CFR 60.58b(k), except as provided in Subparagraphs (2) and (3) of this Paragraph.

- (2) The emission limit specified in Subparagraph (1) of this Paragraph covers visible emissions discharged to the atmosphere from buildings or enclosures, not the visible emissions discharged inside of the buildings or enclosures, of ash conveying systems.
  - (3) The provisions specified in Subparagraph (1) of this Paragraph do not apply during maintenance and repair of ash conveying systems.
- (p) Ambient standards.
- (1) In addition to the ambient air quality standards in Section .0400 of this Subchapter, the following ambient air quality standards, which are an annual average, in milligrams per cubic meter at 77° F (25° C) and 29.92 inches (760 mm) of mercury pressure shall apply aggregately to all incinerators at a facility:
 

(A) arsenic and compounds	2.3x10 <sup>-7</sup>
(B) beryllium and compounds	4.1x10 <sup>-6</sup>
(C) cadmium and compounds	5.5x10 <sup>-6</sup>
(D) chromium(VI) and compounds	8.3x10 <sup>-8</sup>
  - (2) When Subparagraph (1) of this Paragraph and either Rule .0524, .1110, or .1111 of this Subchapter regulate the same pollutant, the more restrictive provision for each pollutant shall apply, notwithstanding provisions of Rule .0524, .1110, or .1111 of this Subchapter to the contrary.
  - (3) The owner or operator of a facility with incinerators shall demonstrate compliance with the ambient standards in Parts (1)(A) through (D) of this Paragraph by following the procedures set out in Rule .1106 of this Subchapter. Modeling demonstrations shall comply with the requirements of Rule .0533 of this Subchapter.
  - (4) The emission rates computed or used under Subparagraph (3) of this Paragraph that demonstrate compliance with the ambient standards under Subparagraph (1) of this Paragraph shall be placed in the permit for the facility with incinerators as their allowable emission limits unless Rule .0524, .1110 or .1111 of this Subchapter requires more restrictive rates.

Authority G.S. 143-215.3(a)(1); 143-215.107(a)(3), (4), (5).

## SUBCHAPTER 2H - PROCEDURES FOR PERMITS: APPROVALS

### SECTION .0600 - AIR QUALITY PERMITS

#### .0610 PERMIT REQUIREMENTS FOR TOXIC AIR POLLUTANTS

(a) ~~Definitions.~~ For the purposes of this Rule, the following definitions apply:

- (1) ~~"Actual emissions"~~ means the average rate at which the source actually emitted the pollutant during a two-year period that preceded the date of the application for the modification and that is representative of normal operation of the source.
  - (2) ~~"Creditable emissions"~~ means actual decreased emissions that have not been previously relied on to comply with 15A NCAC 2D .1106. All creditable emissions shall be enforceable by permit condition.
  - (3) ~~"Evaluation"~~ means a determination of ambient air concentrations as described under 15A NCAC 2D .1106 and shall include emissions from sources exempted by Paragraph (g) of this Rule.
  - (4) ~~"Existing facility"~~ means any facility that was permitted to construct or was in operation before October 1, 1993.
  - (5) ~~"Incinerator"~~ means any device subject to requirements of 15A NCAC 2D .1200.
  - (6) ~~"MACT"~~ means any maximum achievable control technology emission standard applied to a source or facility pursuant to Title III of the 1990 federal Clean Air Act Amendments.
  - (7) ~~"Maximum feasible control"~~ means the maximum degree of reduction for each pollutant subject to regulation in this Rule using the best technology that is available taking into account, on a case-by-case basis, energy, environmental, and economic impacts and other costs.
  - (8) ~~"Modification"~~ means any physical change or change that results in a net increase in emissions or ambient concentration of any pollutant listed in Paragraph (h) of this Rule or which results in the emission of any pollutant listed in Paragraph (h) of this Rule not previously emitted.
  - (9) ~~"Net increase in emissions"~~ means the amount by which the sum of the following exceeds zero:
    - (A) ~~any increase in emissions from a particular physical change or change in the method of operation at the facility; and~~
    - (B) ~~any other increases and decreases in emissions at the facility within five years immediately preceding the filing of an air permit application for the modification that are otherwise creditable emissions.~~
  - (10) ~~"Unadulterated wood"~~ means wood that is not painted, varnished, stained, oiled, waxed, or otherwise coated or treated with any chemical. Plywood, particle board, and resinated wood are not unadulterated wood.
- (b) ~~Applicability.~~ Except as provided in Paragraph (g) or (h) of this Rule, no person shall cause or allow any toxic air pollutant named in 15A NCAC 2D .1104 to be emitted into the atmosphere from any source without having received a permit from the Commission in accordance with the

following:

- (1) ~~New Facilities.~~ Any facility that begins construction after September 30, 1993, and that:
  - (A) ~~is required to have a permit because of applicability of Sections in Subchapter 2D of this Chapter other than Section .1100 of this Subchapter, except for facilities whose emissions of toxic air pollutants result only from combusting unadulterated fossil fuels or unadulterated wood and associated storage of such fuels; or~~
  - (B) ~~has a standard industrial classification (SIC) code that has previously been called under Subparagraph (b)(3) of this Rule;~~ shall comply with Section .1100 of this Subchapter before beginning construction or operation, shall have received a permit to emit toxic air pollutants before beginning construction and shall comply with such permit when beginning operation.
- (2) ~~Facilities with Incinerators.~~ The owner or operator of any incinerator subject to 15A NCAC 2D .1200 which began construction or was in operation before October 1, 1991, shall apply for a permit or a permit modification to emit toxic air pollutants from the incinerator, including associated waste handling and storage, in accordance with the compliance schedules contained in 15A NCAC 2D .1209. The owner or operator of the incinerator shall apply for a permit or a permit modification to emit toxic air pollutants from all other sources at that facility in accordance with Subparagraphs (b)(3) through (6) of this Rule.
- (3) ~~SIC Calls for Existing Facilities.~~ The owner or operator of an existing facility shall have 180 days to apply for a permit or permit modification for the emissions of toxic air pollutants after receiving written notification from the Director. Such facilities shall comply with 15A NCAC 2D .1100 as follows:
  - (A) ~~If it is not known that the source is, or will be, subject to a MACT at the time of notification, the source shall comply:~~
    - (i) ~~within three years from the date that the permit is issued if the source does not emit any toxic air pollutant in common with any source at the facility subject to MACT; or~~
    - (ii) ~~in accordance with Subparagraph (b)(4) of this Rule if the source emits a toxic air pollutant in common with any source at the facility subject to MACT.~~
  - (B) ~~If it is known that the source is, or will be, subject to a MACT at the time of notification, the source shall comply in accordance with Subparagraph (b)(4) of this~~

Rule.

The Director shall notify facilities subject to this Subparagraph by calling for permit applications on the basis of standard industrial classifications, that is, he shall call at one time for permits for all facilities statewide that have the same four-digit standard industrial classification code, except those facilities located in certified local air pollution control agency areas. (Local air pollution control agencies shall call the standard industrial classification code within their jurisdiction when the Director calls that code. A local air pollution control agency may call a particular standard industrial classification code before the Director calls that code if the Commission approves the call by the local air pollution control agency.) All sources, regardless of their standard industrial classification code and including sources combusting only unadulterated fossil fuels or unadulterated wood, at the facility shall be included in the call for permit applications. All members of a source or facility category not having a standard industrial classification code shall similarly be called at one time. For categories of sources, excluding cooling towers, for which it is known that the Environmental Protection Agency (EPA) has scheduled promulgation of a MACT under Section 112(c) of the federal Clean Air Act, the Director shall notify facilities in these categories as the EPA promulgates MACT. If the EPA fails to promulgate a MACT as scheduled after it has approved the State's Title V permit program, the Director shall notify facilities 18 months after the missed promulgation date.

- (4) Existing Facilities Subject to MACT. The owner or operator of an existing facility subject to one or more MACT, or that may be subject to a MACT based on studies required by Section 112 (n)(1) of the Clean Air Act, 42 U.S.C. Section 7412 (n)(1), shall submit a permit application to comply with Section .1100 of this Subchapter at the same time that he submits a permit application to comply with the last MACT that is known to apply to the facility. The permit application shall include an evaluation for all toxic air pollutants covered under 15A NCAC 2D .1104 for all sources at the facility. The facility shall comply with the requirements of 15A NCAC 2D .1100 by the same deadline that it is required to comply with the last MACT.
- (5) Modification. For modification of a facility undertaken after August 31, 1993, that is required to have a permit because of applicability of Sections in Subchapter 2D of this Chapter other than Section .1100 of this Subchapter, except for facilities whose emissions of toxic air pollutants result only from combusting unadulterated fossil fuels or unadulterated wood and associated storage of such

fuels or that has a standard industrial classification (SIC) code that has previously been called under Subparagraph (b)(3) of this Rule, the owner or operator of the facility shall submit a permit application to comply with 15A NCAC 2D .1100 if:

- (A) The modification results in:
  - (i) a net increase in emissions of any toxic air pollutant that the facility was emitting before the modification; or
  - (ii) emissions of any toxic air pollutant that the facility was not emitting before the modification if such emissions exceed any level contained in Paragraph (h) of this Rule; or
- (B) The Director finds that the modification of the facility will significantly increase the risk to human health posed by the facility. The Director shall provide his findings to the owner or operator of the facility. The Director may require the owner or operator of a facility subject to this Subparagraph to provide a satisfactory analysis showing what the resultant emissions and increase of risk to human health from the modified facility will be.

The permit application filed pursuant to Part (A) of this Subparagraph shall include an evaluation for all toxic air pollutants covered under 15A NCAC 2D .1104 for which there is a net increase in emissions of toxic air pollutants being emitted before the modification or an increase in emissions of toxic air pollutants above the level in Paragraph (h) of this Rule of toxic air pollutants not being emitted before the modifications. All sources at the facility emitting these toxic air pollutants shall be included in the evaluation. The permit application filed pursuant to Part (B) of this Subparagraph shall include an evaluation for all toxic air pollutants identified by the Director as significantly increasing the risk to human health.

- (6) Previously Permitted Facilities:
  - (A) A facility that received a permit to emit toxic air pollutants before October 1, 1993, shall continue to operate under the terms of such permit. The emissions of toxic air pollutants resulting from modification of the facility will be regulated pursuant to Subparagraph (b)(5) of this Rule.
  - (B) A facility that has received a permit to emit toxic air pollutants before October 1, 1993, that is operating under a compliance schedule previously approved by the Director, and that will be subject to a MACT shall be required to comply with the terms of such compliance schedule unless the owner or operator of the facility demonstrates to the

satisfaction of the Director that compliance requires substantial capital expenditures that may be rendered unnecessary when MACT is applied. Where such a demonstration is made, the owner or operator of the facility shall submit a permit application to comply with 15A NCAC 2D .1100 in accordance with Subparagraphs (b)(3), (4), or (5) of this Rule.

(c) ~~Demonstrations.~~ The owner or operator of a source who is applying for a permit or permit modification to emit toxic air pollutants shall:

(1) ~~demonstrate to the satisfaction of the Director through dispersion modeling that the emissions of toxic air pollutants from the facility will not cause any acceptable ambient level listed in 15A NCAC 2D .1104 to be exceeded; or~~

(2) ~~demonstrate to the satisfaction of the Commission or its delegate that the ambient concentration beyond the premises (contiguous and adjacent property boundary) for the subject toxic air pollutant will not adversely affect human health even though the concentration is higher than the acceptable ambient level in 15A NCAC 2D .1104 by providing one of the following demonstrations:~~

(A) ~~the area where the ambient concentrations are expected to exceed the acceptable ambient levels in 15A NCAC 2D .1104 are not inhabitable or occupied for the duration of the averaging time of the pollutant of concern; or~~

(B) ~~new toxicological data that shows that the acceptable ambient level in 15A NCAC 2D .1104 for the pollutant of concern is too low and the facility's ambient impact is below the level indicated by the toxicological data.~~

(d) ~~Technical Infeasibility and Economic Hardship.~~ This Paragraph shall not apply to any incinerator covered under 15A NCAC 2D .1200. The owner or operator of any source constructed before May 1, 1990, who cannot supply a demonstration described in Paragraph (c) of this Rule shall:

(1) ~~demonstrate to the satisfaction of the Commission or its delegate that complying with the guidelines in 15A NCAC 2D .1104 is technically infeasible (the technology necessary to reduce emissions to a level to prevent the acceptable ambient levels in 15A NCAC 2D .1104 from being exceeded does not exist); or~~

(2) ~~demonstrate to the satisfaction of the Commission or its delegate that complying with the guidelines in 15A NCAC 2D .1104 would result in serious economic hardship.~~

If the owner or operator makes a demonstration to the satisfaction of the Commission or its delegate pursuant to Subparagraph (1) or (2) of this Paragraph, the Director shall require the owner or operator of the source to apply

maximum feasible control. Maximum feasible control shall be in place and operating within three years from the date that the permit is issued for the maximum feasible control.

(e) ~~Public Notice and Opportunity for Public Hearing.~~ If the owner or operator of a source chooses to make a demonstration pursuant to Subparagraph (c)(2) or (d)(1) or (2) of this Rule, the Commission or its delegate shall approve or disapprove the permit after a public notice with an opportunity for a public hearing. The public notice shall meet the requirements of Paragraph (c) of 15A NCAC 2Q .0307. Any subsequent public hearing shall meet the requirements of Paragraph (e) of 15A NCAC 2Q .0307.

(f) ~~Modeling Demonstration.~~ If the owner or operator of a facility demonstrates by modeling that any toxic air pollutant emitted from his facility contributes an incremental concentration to the ambient air concentration of that pollutant beyond his premises which is less than the acceptable ambient level values given in 15A NCAC 2D .1104, he does not have to provide any further modeling demonstration with his permit application. However, the Commission may still require more stringent emission levels in accordance with its analysis under 15A NCAC 2D .1107.

(g) ~~Exemptions.~~ A permit to emit toxic air pollutants shall not be required for:

(1) ~~the noncommercial use of household cleaners, household chemicals, or household fuels in private residences;~~

(2) ~~asbestos demolition and renovation projects that comply with 15A NCAC 2D .1110 and that are being done by persons accredited by the Department of Environment, Health, and Natural Resources under the Asbestos Hazard Emergency Response Act;~~

(3) ~~emissions from gasoline dispensing facility or gasoline service station operations performed as a part of petroleum distribution to the ultimate consumer where the emissions comply with 15A NCAC 2D .0524, .0925, .0928, .0932 and .0933 and that receive gasoline from bulk gasoline plants or bulk gasoline terminals that comply with 15A NCAC 2D .0524, .0925, .0926, .0927, .0932, and .0933 via tank trucks that comply with 15A NCAC 2D .0932;~~

(4) ~~the use for agricultural operations by a farmer of fertilizers, pesticides, or other agricultural chemicals containing one or more of the compounds listed in 15A NCAC 2D .1104 if such compounds are applied in accordance with agronomic practices acceptable to the North Carolina Department of Agriculture and the Commission;~~

(5) ~~manholes and customer vents of wastewater collection systems;~~

(6) ~~emissions of ethylene oxide resulting from use as a sterilant in the production and subsequent storage of medical devices or the packaging and subsequent storage of medical devices for sale provided that~~

the emissions from all new and existing sources located at the facility described in Paragraph (d) of 15A NCAC 2D .0538 are controlled at least to the degree described in Paragraph (d) of 15A NCAC 2D .0538 and the facility complies with Paragraphs (c) and (f) of 15A NCAC 2D .0538:

- (7) ~~emissions from bulk gasoline plants, including emissions from the storage and handling of fuel oils, kerosenes, and jet fuels but excluding emissions from the storage and handling of other organic liquids, that comply with 15A NCAC 2D .0524, .0925, .0926, .0932, and .0933 unless the Director finds that a permit to emit toxic air pollutants is required under this Rule for a particular bulk gasoline plant;~~

- (8) ~~emissions from bulk gasoline terminals, including emissions from the storage and handling of fuel oils, kerosenes, and jet fuels but excluding emissions from the storage and handling of other organic liquids, that comply with 15A NCAC 2D .0524, .0925, .0927, .0932, and .0933 if the bulk gasoline terminal existed before November 1, 1992, unless:~~

- (A) ~~the Director finds that a permit to emit toxic air pollutants is required under this Rule for a particular bulk gasoline terminal, or~~  
(B) ~~the owner or operator of the bulk gasoline terminal meets the requirements of 15A NCAC 2D .0927(i).~~

(h) ~~Emission Rates Requiring a Permit. A permit to emit toxic air pollutants shall be required for any facility whose actual emissions from all sources are greater than any one of the following:~~

	lb/yr	lb/day	lb/hr	lb/15 min
<del>(1) acetaldehyde</del>				1.7
<del>(2) acetic acid</del>				0.24
<del>(3) acrolein</del>				0.005
<del>(4) acrylonitrile</del>	10			
<del>(5) ammonia</del>				0.017
<del>(6) ammonium chromate</del>		0.013		
<del>(7) ammonium dichromate</del>		0.013		
<del>(8) aniline</del>			0.25	
<del>(9) arsenic and inorganic arsenic compounds</del>	0.016			
<del>(10) asbestos</del>	$1.9 \times 10^{-6}$			
<del>(11) aziridine</del>		0.13		
<del>(12) benzene</del>	8.1			
<del>(13) benzydine and salts</del>	0.0010			
<del>(14) benzo(a)pyrene</del>	2.2			
<del>(15) benzyl chloride</del>			0.13	
<del>(16) beryllium</del>	0.28			
<del>(17) beryllium chloride</del>	0.28			
<del>(18) beryllium fluoride</del>	0.28			
<del>(19) beryllium nitrate</del>	0.28			
<del>(20) bis-chloromethyl ether</del>	0.025			
<del>(21) bromine</del>				0.013

**PROPOSED RULES**

	lb/yr	lb/day	lb/hr	lb/15 min
<del>(22) 1,3-butadiene</del>	<del>12</del>			
<del>(23) cadmium</del>	<del>0.37</del>			
<del>(24) cadmium acetate</del>	<del>0.37</del>			
<del>(25) cadmium bromide</del>	<del>0.37</del>			
<del>(26) calcium chromate</del>	<del>0.0056</del>			
<del>(27) carbon disulfide</del>		<del>3.9</del>		
<del>(28) carbon tetrachloride</del>	<del>460</del>			
<del>(29) chlorine</del>		<del>0.79</del>		<del>0.057</del>
<del>(30) chlorobenzene</del>		<del>46</del>		
<del>(31) chloroform</del>	<del>290</del>			
<del>(32) chloroprene</del>		<del>9.2</del>	<del>0.89</del>	
<del>(33) chromic acid</del>		<del>0.013</del>		
<del>(34) chromium (vi)</del>	<del>0.0056</del>			
<del>(35) cresol</del>			<del>0.56</del>	
<del>(36) p-dichlorobenzene</del>				<del>4.2</del>
<del>(37) dichlorodifluoromethane</del>		<del>5200</del>		
<del>(38) dichlorofluoromethane</del>		<del>10</del>		
<del>(39) di(2-ethylhexyl)phthalate</del>		<del>0.63</del>		
<del>(40) dimethyl sulfate</del>		<del>0.063</del>		
<del>(41) 1,4-dioxane</del>		<del>12</del>		
<del>(42) epichlorohydrin</del>	<del>5600</del>			
<del>(43) ethyl acetate</del>			<del>36</del>	
<del>(44) ethylenediamine</del>		<del>6.3</del>	<del>0.64</del>	
<del>(45) ethylene dibromide</del>	<del>27</del>			
<del>(46) ethylene dichloride</del>	<del>260</del>			
<del>(47) ethylene glycol monoethyl ether</del>		<del>2.5</del>	<del>0.48</del>	
<del>(48) ethylene oxide</del>	<del>1.8</del>			
<del>(49) ethyl mercaptan</del>			<del>0.025</del>	
<del>(50) fluorides</del>		<del>0.34</del>	<del>0.064</del>	
<del>(51) formaldehyde</del>				<del>0.010</del>
<del>(52) hexachlorocyclo- pentadiene</del>		<del>0.013</del>	<del>0.0025</del>	
<del>(53) hexachlorodibenzo-p dioxin</del>	<del>0.0051</del>			

**PROPOSED RULES**

	lb/yr	lb/day	lb/hr	lb/15 min
<del>(54) n-hexane</del>		23		
<del>(55) hexane isomers except n-hexane</del>				23
<del>(56) hydrazine</del>		0.013		
<del>(57) hydrogen chloride</del>				0.045
<del>(58) hydrogen cyanide</del>		2.9	0.28	
<del>(59) hydrogen fluoride</del>		0.63		0.016
<del>(60) hydrogen sulfide</del>				0.13
<del>(61) maleic anhydride</del>		0.25	0.025	
<del>(62) manganese and compounds</del>		0.63		
<del>(63) manganese cyclopentadienyl tricarbonyl</del>		0.013		
<del>(64) manganese tetroxide</del>		0.13		
<del>(65) mercury, alkyl</del>		0.0013		
<del>(66) mercury, aryl and inorganic compounds</del>		0.013		
<del>(67) mercury, vapor</del>		0.013		
<del>(68) methyl chloroform</del>		250		16
<del>(69) methylene chloride</del>	1600			
<del>(70) methyl ethyl ketone</del>		78		5.6
<del>(71) methyl isobutyl ketone</del>		52		1.9
<del>(72) methyl mercaptan</del>			0.013	
<del>(73) nickel carbonyl</del>		0.013		
<del>(74) nickel metal</del>		0.13		
<del>(75) nickel, soluble compounds, as nickel</del>		0.013		
<del>(76) nickel subsulfide</del>	0.14			
<del>(77) nitric acid</del>				0.064
<del>(78) nitrobenzene</del>		1.3	0.13	
<del>(79) N-nitrosodimethylamine</del>	3.4			
<del>(80) pentachlorophenol</del>		0.063	0.0064	
<del>(81) perchloroethylene</del>	13000			
<del>(82) phenol</del>			0.24	
<del>(83) phosgene</del>		0.052		



	lb/yr	lb/day	lb/hr	lb/15 min
<del>(84) phosphine</del>				0.008
<del>(85) polychlorinated biphenyls</del>	5.6			
<del>(86) potassium chromate</del>		0.013		
<del>(87) potassium dichromate</del>		0.013		
<del>(88) sodium chromate</del>		0.013		
<del>(89) sodium dichromate</del>		0.013		
<del>(90) strontium chromate</del>	0.0056			
<del>(91) styrene</del>			2.7	
<del>(92) sulfuric acid</del>		0.25	0.025	
<del>(93) tetrachlorodibenzo-p-dioxin</del>	0.00020			
<del>(94) 1,1,1,2-tetrachloro-2,2-difluoroethane</del>		1100		
<del>(95) 1,1,2,2-tetrachloro-1,2-difluoroethane</del>		1100		
<del>(96) 1,1,1,2-tetrachloroethane</del>	430			
<del>(97) toluene</del>		98		3.6
<del>(98) toluene diisocyanate, 2-4 and 2-6 isomers</del>		0.011		0.001
<del>(99) trichloroethylene</del>	4000			
<del>(100) trichlorofluoromethane</del>		140		
<del>(101) 1,1,2-trichloro-1,2,2-fluoroethane</del>				60
<del>(102) vinyl chloride</del>	26			
<del>(103) vinylidene chloride</del>		2.5		
<del>(104) xylene</del>		57		4.1
<del>(105) zinc chromate</del>	0.0056			

~~(i) Calls by the Director. Notwithstanding any other provision of this Rule or 15A NCAC 2D .1104, the Director may, upon written finding that a source or facility emitting toxic air pollutants presents an unacceptable risk to human health based on the acceptable ambient levels in 15A NCAC 2D .1104 or epidemiology studies, require the owner or operator of the source or facility to submit a permit application to comply with 15A NCAC 2D .1100.~~

Authority G.S. 143-215.3(a)(1); 143-215.108; 143B-282; S.L. 1989, c. 168, s. 45.

#### SUBCHAPTER 2Q - AIR QUALITY PERMIT PROCEDURES

#### SECTION .0100 - GENERAL PROVISIONS

##### .0101 REQUIRED AIR QUALITY PERMITS

(a) No owner or operator shall do any of the following activities, that is not otherwise exempted, without first applying for and obtaining an air quality permit:

- (1) construct, operate, or modify a source subject to an applicable standard, requirement, or rule that emits any regulated pollutant or one or more of the following:
  - (A) sulfur dioxide,
  - (B) total suspended particulates,
  - (C) particulate matter (PM10),
  - (D) carbon monoxide,

- (E) nitrogen oxides,
- (F) volatile organic compounds,
- (G) lead and lead compounds,
- (H) fluorides,
- (I) total reduced sulfur,
- (J) reduced sulfur compounds,
- (K) hydrogen sulfide,
- (L) sulfuric acid mist,
- (M) asbestos,
- (N) arsenic and arsenic compounds,
- (O) beryllium and beryllium compounds,
- (P) cadmium and cadmium compounds,
- (Q) chromium(VI) and chromium(VI) compounds,
- (R) mercury and mercury compounds,
- (S) hydrogen chloride,
- (T) vinyl chloride,
- (U) benzene,
- (V) ethylene oxide,
- (W) dioxins and furans,
- (X) ozone, or
- (Y) any toxic air pollutant listed in 15A NCAC 2D .1104;

- (2) construct, operate, or modify a facility that has the potential to emit at least 10 tons per year of any hazardous air pollutant or 25 tons per year of all hazardous air pollutants combined or that are subject to requirements established under the following sections of the federal Clean Air Act:

- (A) Section 112(d), emissions standards;
- (B) Section 112(f), standards to protect public health and the environment;
- (C) Section 112(g), ~~modifications (but only for the facility subject to Section 112(g)(2); construction and reconstruction;~~
- (D) Section 112(h), work practice standards and other requirements;
- (E) Section 112(i)(5), early reduction;
- (F) Section 112(j), federal failure to promulgate standards;
- (G) Section 112(r), accidental releases; or

- (3) enter into an irrevocable contract for the construction, operation, or modification of an air-cleaning device.

- (b) There are two types of air quality permits:

- (1) Stationary Source Construction and Operation Permit: The owner or operator of a new, modified, or existing facility or source shall not begin construction or operation without first obtaining a construction and operation permit in accordance with the standard procedures under Section .0300 of this Subchapter. Title V facilities are subject to the Title V procedures under Section .0500 of this Subchapter including the acid rain procedures under Section .0400 of this Subchapter.

A facility may also be subject to the air toxic procedures under 15A NCAC ~~2H .0610; 2Q .0700.~~

- (2) Transportation Facility Construction Permit. The owner or operator of a transportation facility subject to the requirements of 15A NCAC 2D .0800 shall obtain a construction only permit following the procedures under Section .0600 of this Subchapter.

- (c) Fees shall be paid in accordance with the requirements of Section .0200 of this Subchapter.

*Authority G.S. 143-215.3(a)(1); 143-215.108; 143-215.109.*

#### **.0102 ACTIVITIES EXEMPTED FROM PERMIT REQUIREMENTS**

- (a) If a source is subject to any of the following rules, then the source is not exempted from permit requirements, and the exemptions in Paragraph (b) of this Rule do not apply:

- (1) new source performance standards under 15A NCAC 2D .0524 or 40 CFR Part 60, except:
  - (A) 40 CFR Part 60, Subpart Dc, industrial, commercial, and institutional steam generating units located at a facility not required to be permitted under Section .0500 of this Subchapter;
  - (B) 40 CFR Part 60, Subpart Kb, volatile organic liquid storage vessels located at a facility not required to be permitted under Section .0500 of this Subchapter; or
  - (C) 40 CFR Part 60, Subpart AAA, new residential wood heaters;
- (2) national emission standards for hazardous air pollutants under 15A NCAC 2D .1110 or 40 CFR Part 61, except asbestos demolition and renovation activities;
- (3) prevention of significant deterioration under 15A NCAC 2D .0530;
- (4) new source review under 15A NCAC 2D .0531 or .0532;
- (5) sources of volatile organic compounds subject to the requirements of 15A NCAC 2D .0900 that are located in Mecklenburg County in accordance with 15A NCAC 2D .0902;
- (6) sources required to apply maximum achievable control technology (MACT) for hazardous air pollutants under 15A NCAC 2D ~~.1109 or .1109,~~ ~~.1111 or .1111,~~ ~~.1112, or~~ 40 CFR Part 63 that are required to have a permit under Section .0500 of this Subchapter; or
- (7) sources at facilities subject to 15A NCAC 2D .1100. (If a source does not emit a toxic air pollutant for which the facility at which it is located has been ~~evaluated;~~ modeled, it shall be exempted from needing a permit if it qualifies for one of the exemptions in Paragraph (b) of this Rule).

- (b) The following activities do not need a permit or permit modification under this Subchapter; however, the Director may require the owner or operator of these activities to register them under 15A NCAC 2D .0200:

- (1) activities exempted because of category (These activities shall not be included on the permit application or in the permit.):
  - (A) maintenance, upkeep, and replacement:
    - (i) maintenance, structural changes, or repairs which do not change the capacity of such process, fuel-burning, refuse-burning, or control equipment, and do not involve any change in quality or nature or increase in quantity of emission of regulated air pollutants;
    - (ii) housekeeping activities or building maintenance procedures, including painting buildings, resurfacing floors, roof repair, washing, portable vacuum cleaners, sweeping, use and associated storage of janitorial products, or insulation removal;
    - (iii) use of office supplies, supplies to maintain copying equipment, or blueprint machines,
    - (iv) use of fire fighting equipment;
    - (v) paving parking lots; or
    - (vi) replacement of existing equipment with equipment of the same size, type, and function that does not result in an increase to the actual or potential emission of regulated air pollutants and that does not affect the compliance status, and with replacement equipment that fits the description of the existing equipment in the permit, including the application, such that the replacement equipment can be operated under that permit without any changes in the permit;
  - (B) air conditioning or ventilation: comfort air conditioning or comfort ventilating systems which do not transport, remove, or exhaust regulated air pollutants to the atmosphere;
  - (C) laboratory activities:
    - (i) bench-scale, on-site equipment used exclusively for chemical or physical analysis for quality control purposes, staff instruction, water or wastewater analyses, or non-production environmental compliance assessments;
    - (ii) bench-scale experimentation, chemical or physical analyses, training or instruction from not-for-profit, non-production educational laboratories;
    - (iii) bench-scale experimentation, chemical or physical analyses, training or instruction from hospitals or health laboratories pursuant to the determination or diagnoses of illness; or
  - (iv) research and development laboratory activities that are not required to be permitted under Section .0500 of this Subchapter provided the activity produces no commercial product or feedstock material;
  - (D) storage tanks:
    - (i) storage tanks used solely to store fuel oils, kerosene, diesel, crude oil, used motor oil, lubricants, cooling oils, natural gas or liquified petroleum gas;
    - (ii) storage tanks used to store gasoline for which there are no applicable requirements except Stage I controls under 15A NCAC 2D .0928;
    - (iii) storage tanks used solely to store inorganic liquids; or
    - (iv) storage tanks or vessels used for the temporary containment of materials resulting from an emergency response to an unanticipated release of hazardous materials;
  - (E) combustion and heat transfer equipment:
    - (i) space heaters burning distillate oil, kerosene, natural gas, or liquified petroleum gas operating by direct heat transfer and used solely for comfort heat;
    - (ii) residential wood stoves, heaters, or fireplaces;
    - (iii) hot water heaters which are used for domestic purposes only and are not used to heat process water;
  - (F) wastewater treatment processes: industrial wastewater treatment processes or municipal wastewater treatment processes for which there are no applicable requirements;
  - (G) gasoline distribution:
    - (i) gasoline service stations or gasoline dispensing facilities that are not required to be permitted under Section .0500 of this Subchapter; or
    - (ii) gasoline dispensing equipment at facilities required to be permitted under Section .0500 of this Subchapter if the equipment is used solely to refuel facility equipment;
  - (H) dispensing equipment: equipment used solely to dispense diesel fuel, kerosene, lubricants or cooling oils;
  - (I) solvent recycling: portable solvent distillation systems used for on-site solvent recycling if:
    - (i) The portable solvent distillation

- system is not:
- (I) owned by the facility, and
  - (II) operated at the facility for more than seven consecutive days; and
  - (ii) The material recycled is:
    - (I) recycled at the site of origin,
    - (II) the original material is non-photochemically reactive in accordance with 15A NCAC 2D .0518, Miscellaneous Volatile Organic Compound Emissions, and
    - (III) all make up material is non-photochemically reactive in accordance with 15A NCAC 2D .0518;
  - (J) processes:
    - (i) small electric motor burn-out ovens with secondary combustion chambers or afterburners;
    - (ii) small electric motor bake-on ovens;
    - (iii) burn-off ovens for paint-line hangers with afterburners;
    - (iv) hosiery knitting machines and associated lint screens, hosiery dryers and associated lint screens, and hosiery dyeing processes where bleach or solvent dyes are not used;
    - (v) blade wood planers planing only green wood;
  - (K) miscellaneous:
    - (i) motor vehicles, aircraft, marine vessels, locomotives, tractors or other self-propelled vehicles with internal combustion engines;
    - (ii) non-self-propelled non-road engines, except generators, regulated by rules adopted under Title II of the federal Clean Air Act;
    - (iii) equipment used for the preparation of food for direct on-site human consumption;
    - (iv) a source whose emissions are regulated only under Section 112(r) or Title VI of the federal Clean Air Act that is not required to be permitted under Section .0500 of this Subchapter;
    - (v) exit gases from in-line process analyzers;
    - (vi) stacks or vents to prevent escape of sewer gases from domestic waste through plumbing traps;
    - (vii) refrigeration equipment that is consistent with Section 601 through 618 of Title VI (Stratospheric Ozone Protection) of the federal Clean Air Act, 40 CFR Part 82, and any other regulations promulgated by EPA under Title VI for stratospheric ozone protection, except those units used as or in conjunction with air pollution control equipment;
    - (viii) equipment not vented to the outdoor atmosphere with the exception of equipment that emits volatile organic compounds;
    - (ix) equipment that does not emit any regulated air pollutants;
    - (x) facilities subject only to a requirement under 40 CFR Part 63 that are not required to be permitted under Section .0500 of this Subchapter (This Subpart does not apply when a control device is used to meet a MACT or GACT emission standard.); or
    - (xi) sources for which there are no applicable requirements and that are at a facility not required to be permitted under Section .0500 of this Subchapter.
  - (2) activities exempted because of size or production rate (These activities shall not be included in the permit. If the facility is subject to the permitting procedures under Section .0500 of this Subchapter, these activities shall be listed on the permit application; otherwise, these activities shall not be listed on the permit application.):
    - (A) storage tanks:
      - (i) above-ground storage tanks with a storage capacity of no more than 1100 gallons storing organic liquids with a true vapor pressure of no more than 10.8 pounds per square inch absolute at 70°F; or
      - (ii) underground storage tanks with a storage capacity of no more than 2500 gallons storing organic liquids with a true vapor pressure of no more than 10.8 psi absolute at 70°F;
    - (B) combustion and heat transfer equipment located at a facility not required to be permitted under Section .0500 of this Subchapter:
      - (i) fuel combustion equipment, except for internal combustion engines, firing exclusively kerosene, No. 1 fuel oil, No. 2 fuel oil, equivalent unadulterated fuels, or a mixture of these fuels or one or more of these fuels mixed with natural gas or liquified petroleum gas with a heat input of less than:

- (I) 10 million BTU per hour for which construction, modification, or reconstruction commenced after June 9, 1989; or
- (II) 30 million BTU per hour for which construction, modification, or reconstruction commenced before June 10, 1989;
- (ii) fuel combustion equipment, except for internal combustion engines, firing exclusively natural gas or liquified petroleum gas or a mixture of these fuels with a heat input rating less than 65 million BTU per hour;
- (iii) space heaters burning waste oil if:
  - (I) The heater burns only oil that the owner or operator generates or used oil from do-it-yourself oil changers who generate used oil as household wastes;
  - (II) The heater is designed to have a maximum capacity of not more than 500,000 Btu per hour; and
  - (III) The combustion gases from the heater are vented to the ambient air;
- (iv) emergency use generators and other internal combustion engines not regulated by rules adopted under Title II of the federal Clean Air Act, except self-propelled vehicles, that have a rated capacity of no more than:
  - (I) 310 kilowatts (electric) or 460 horsepower for natural gas-fired engines,
  - (II) 830 kilowatts (electric) or 1150 horsepower for liquified petroleum gas-fired engines,
  - (III) 270 kilowatts (electric) or 410 horsepower for diesel-fired or kerosene-fired engines, or
  - (IV) 21 kilowatts (electric) or 31 horsepower for gasoline-fired engines;
- (v) portable generators and other portable equipment with internal combustion engines not regulated by rules adopted under Title II of the federal Clean Air Act, except self-propelled vehicles, that operate at the facility no more than a combined 350 hours for any 365-day period provided the generators or engines have a rated capacity of no more than 750 kilowatt (electric) or 1100 horsepower each and provided records are maintained to verify the hours of operation;
- (vi) peak shaving generators that produce no more than 325,000 kilowatt-hours of electrical energy for any 12-month period provided records are maintained to verify the energy production on a monthly basis and on a 12-month basis;
- (C) gasoline distribution: bulk gasoline plants with an average daily throughput of less than 4000 gallons that is not required to be permitted under Section .0500 of this Subchapter;
- (D) processes:
  - (i) printing, paint spray booths or other painting or coating operations without air pollution control devices (water wash and filters that are an integral part of the paint spray booth are not considered air pollution control devices) located at a facility whose facility-wide actual emissions of:
    - (I) Volatile organic compounds are less than five tons per year, and
    - (II) Photochemically reactive solvent emissions under 15A NCAC 2D .0518 are less than 30 pounds per day;
 provided the facility is not required to be permitted under Section .0500 of this Subchapter;
  - (ii) saw mills that saw no more than 2,000,000 board feet per year provided only green wood is sawed;
  - (iii) perchloroethylene dry cleaners that consume less than 13,000 pounds (965 gallons) of perchloroethylene per year;
  - (iv) electrostatic dry powder coating operations equipped with powder recovery including curing ovens with a heat input of less than 10,000,000 BTU per hour;
- (E) miscellaneous:
  - (i) any source without an air pollution control device whose emissions would not violate any applicable emissions standard and whose potential emissions of particulate, sulfur dioxide, nitrogen oxides, volatile organic compounds, and carbon monoxide are each no more than five tons per year and whose potential emissions of hazardous air pollutants are below their lesser quantity cutoff

except:

- (I) storage tanks,
  - (II) fuel combustion equipment, excluding fuel combustion equipment at facilities required to have a permit under Section .0500 of this Subchapter, firing exclusively kerosene, No. 1 fuel oil, No. 2 fuel oil, equivalent unadulterated fuels, natural gas, liquified petroleum gas, or a mixture of these fuels,
  - (III) space heaters burning waste oil,
  - (IV) generators, excluding emergency generators, or other non-self-propelled internal combustion engines,
  - (V) bulk gasoline plants,
  - (VI) printing, paint spray booths, or other painting or coating operations,
  - (VII) saw mills,
  - (VIII) perchloroethylene dry cleaners, or
  - (IX) electrostatic dry powder coating operations,
- provided that the total potential emissions of particulate, sulfur dioxide, nitrogen oxides, volatile organic compounds, and carbon monoxide from the facility are each less than 40 tons per year and the total potential emissions of all hazardous air pollutants are below their lesser quantity cutoff emission rates or provided that the facility has an air quality permit;
- (ii) any facility without an air pollution control device whose actual emissions of particulate, sulfur dioxide, nitrogen oxides, volatile organic compounds, or carbon monoxide are each less than five tons per year, whose potential emissions of all hazardous air pollutants are below their lesser quantity cutoff emission rates, and which is not required to have a permit under Section .0500 of this Subchapter;
  - (iii) any source that only emits hazardous air pollutants that are not also a particulate or a volatile organic compound and whose potential emissions of hazardous air pollutants are below their lesser quantity cutoff emission rates; or
  - (iv) any incinerator covered under

Paragraph (d) of 15A NCAC 2D .1201.

(F) case-by-case exemption:

- (i) for activities located at facilities not required to have a permit under Section .0500 of this Subchapter, activities that the applicant demonstrates to the satisfaction of the Director:
  - (I) to be negligible in their air quality impacts,
  - (II) not to have any air pollution control device, and
  - (III) not to violate any applicable emission control standard when operating at maximum design capacity or maximum operating rate, whichever is greater; or
- (ii) for activities located at facilities required to have a permit under Section .0500 of this Subchapter: activities that the applicant demonstrates to the satisfaction of the Director:
  - (I) to be negligible in their air quality impacts,
  - (II) not to have any air pollution control device,
  - (III) not to violate any applicable emission control standard when operating at maximum design capacity or maximum operating rate, whichever is greater,
  - (IV) the potential emissions of each criteria pollutant is less than five tons per year, and
  - (V) the potential emissions of each hazardous air pollutant is less than 1000 pounds per year.

(c) Because an activity is exempted from being required to have a permit does not mean that the activity is exempted from any applicable requirement or that the owner or operator of the source is exempted from demonstrating compliance with any applicable requirement.

(d) Emissions from stationary source activities identified in Paragraph (b) of this Rule shall be included in determining compliance with the toxic air pollutant requirements under 15A NCAC 2D .1100 or ~~2H .0610~~ 2Q .0700.

(e) The owner or operator of a facility or source claiming an exemption under Paragraph (b) of this Rule shall provide the Director documentation upon request that the facility or source is qualified for that exemption.

Authority G.S. 143-215.3(a)(1); 143-215.107(a)(4); 143-215.108.

SECTION .0300 - CONSTRUCTION AND OPERATION

**PERMITS**

**.0301 APPLICABILITY**

(a) Except for the permit exemptions allowed under Rules .0102 and .0302 of this Subchapter, the owner or operator of a new, modified, or existing facility or source shall not begin construction or operation without first obtaining a construction and operation permit in accordance with the procedures under Section .0300; however, Title V facilities are subject to the Title V procedures under Section .0500 including the acid rain procedures under Section .0400 for Title IV sources.

(b) The owner or operator of a source required to have a permit under this Section may also be subject to the air toxic permit procedures under 15A NCAC 2H-0610, 2Q .0700.

(c) The owner or operator of a source required to have a permit under this Section shall pay permit fees required under Section .0200 of this Subchapter.

*Authority G.S. 143-215.3(a)(1); 143-215.108.*

**.0302 FACILITIES NOT LIKELY TO CONTRAVENE DEMONSTRATION**

(a) This Rule applies only to this Section. It does not apply to Section .0500 (Title V Procedures) of this Subchapter.

(b) If a facility is subject to any of the following rules, the facility is not exempted from permit requirements, and the exemptions in Paragraph (c) of this Rule do not apply:

- (1) new source performance standards under 15A NCAC 2D .0524 or 40 CFR Part 60, except new residential wood heaters;
- (2) national emission standards for hazardous air pollutants under 15A NCAC 2D .1110 or 40 CFR Part 61, except asbestos demolition and renovation activities;
- (3) prevention of significant deterioration under 15A NCAC 2D .0530;
- (4) new source review under 15A NCAC 2D .0531 or .0532;
- (5) sources of volatile organic compounds subject to the requirements of 15A NCAC 2D .0900 that are located in Mecklenburg and Gaston Counties;
- (6) sources required to apply maximum achievable control technology for hazardous air pollutants under 15A NCAC 2D ~~.1109~~ .1109, .1112 or under 40 CFR Part 63 or to apply generally available control technology (GACT) ~~under~~ or work practice standards under 40 CFR Part 63;
- (7) sources at facilities subject to 15A NCAC 2D .1100; or
- (8) facilities subject to Title V permitting procedures under Section .0500 of this Subchapter.

(c) The owner or operator of any facility required to have a permit under this Section may request the Director to exempt the facility from the requirement to have a permit. The request shall be in writing. Along with the request, the

owner or operator shall submit supporting documentation to show that air quality and emission control standards will not be, nor are likely to be, contravened. This documentation shall include:

- (1) documentation that the facility has no air pollution control devices;
- (2) documentation that no source at the facility will violate any applicable emissions control standard when operating at maximum design or operating rate, whichever is greater; and
- (3) ambient modeling showing that the ambient impact of emissions from the facility will not exceed the levels in 15A NCAC 2D .0532(c)(5) when all sources at the facility are operated at maximum design or operating rate, whichever is greater.

If the documentation shows to the satisfaction of the Director that air quality and emission control standards will not be, nor are likely to be, contravened, a permit shall not be required.

*Authority G.S. 143-215.3(a)(1); 143-215.108.*

**.0306 PERMITS REQUIRING PUBLIC PARTICIPATION**

(a) The Director shall provide for public notice for comments with an opportunity to request a public hearing on draft permits for the following:

- (1) any source that may be designated by the Director based on significant public interest relevant to air quality;
- (2) a source to which 15A NCAC 2D .0530 or .0531 applies;
- (3) a source whose emission limitation is based on a good engineering practice stack height that exceeds the height defined in 15A NCAC 2D .0533(a)(4)(A), (B), or (C);
- (4) a source required to have controls more stringent than the applicable emission standards in Section 15A NCAC 2D .0500 in accordance with 15A NCAC 2D .0501 when necessary to comply with an ambient air quality standard under 15A NCAC 2D .0400;
- (5) any physical or operational limitation on the capacity of the source to emit a pollutant, including air cleaning device and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, when such a limitation is necessary to avoid the applicability of rules in 15A NCAC 2D .0900 or 15A NCAC 2Q .0500;
- (6) alternative controls different than the applicable emission standards in 15A NCAC 2D .0900 in accordance with 15A NCAC 2D .0952;
- (7) an alternate compliance schedule promulgated in accordance with 15A NCAC 2D .0910;
- (8) a limitation on the quantity of solvent-borne ink that may be used by a printing unit or printing system in

- accordance with 15A NCAC 2D .0936;
- (9) an allowance of a particulate emission rate of 0.08 grains per dry standard cubic foot for an incinerator constructed before July 1, 1987, in accordance with 15A NCAC 2D .1205(b)(2);
  - (10) an alternative mix of controls under 15A NCAC 2D .0501(f);
  - (11) a source that is subject to the requirements of 15A NCAC 2D .1109 ~~because of 15A NCAC 2D .1109(e), or .1112~~; or
  - (12) the owner or operator who requests that the draft permit go to public notice with an opportunity to request a public hearing.
- (b) Failure of the owner or operator of a source permitted pursuant to this Rule to adhere to the terms and limitations of the permit shall be grounds for:
- (1) enforcement action;
  - (2) permit termination, revocation and reissuance, or modification; or
  - (3) denial of permit renewal applications.
- (c) All emissions limitations, controls, and other requirements imposed by a permit issued pursuant to this Rule shall be at least as stringent as any other applicable requirement as defined under Rule .0103 (effective date of July 1, 1994) of this Subchapter. The permit shall not waive or make less stringent any limitation or requirement contained in any applicable requirement.
- (d) Emissions limitations, controls and requirements contained in permits issued pursuant to the Rule shall be permanent, quantifiable, and otherwise enforceable as a practical matter under G.S. 143-215.114A, 143-215.114B, and 143-215.114C.
- (e) If EPA requires the State to submit a permit as part of the North Carolina State Implementation Plan for Air Quality (SIP) and if the Commission approves a permit containing any of the conditions described in Paragraph (a) of this Rule as a part of the SIP, the Director shall submit the permit to the EPA on behalf of the Commission for inclusion as part of the federally approved SIP.

*Authority* G.S. 143-215.3(a)(1), (3); 143-215.108; 143-215.114A; 143-215.114B; 143-215.114C.

### **.0312 APPLICATION PROCESSING SCHEDULE**

(a) The Division shall adhere to the following schedule for processing applications for permits, permit modifications, and permit renewals:

- (1) for permit applications, except for prevention of significant deterioration under 15A NCAC 2D .0530, case-by-case maximum achievable control technology under 15A NCAC 2D ~~.1109~~, .1109 or .1112, or a request for synthetic minor facility status before one year after EPA approves Section .0500 of this Subchapter:
  - (A) The Division shall send written acknowledgment of receipt of the permit application to the applicant within 10 days of

receipt of the application.

- (B) The Division shall review all permit applications within 45 days of receipt of the application to determine whether the application is complete or incomplete for processing purposes. The Division shall notify the applicant by letter:
  - (i) stating that the application as submitted is complete and specifying the completeness date,
  - (ii) stating that the application is incomplete, requesting additional information and specifying the deadline date by which the requested information is to be received by the Division, or
  - (iii) stating that the application is incomplete and requesting that the applicant rewrite and resubmit the application.

If the Division does not notify the applicant by letter dated within 45 days of receipt of the application that the application is incomplete, the application shall be deemed complete. A completeness determination shall not prevent the Director from requesting additional information at a later date when such information is considered necessary to properly evaluate the source, its air pollution abatement equipment, or the facility. If the applicant has not provided the requested additional information by the deadline specified in the letter requesting additional information, the Director may return the application to the applicant as incomplete. The applicant may request a time extension for submittal of the requested additional information.

- (C) The Division shall determine within 45 days of receipt of a complete application if any additional information is needed to conduct the technical review of the application. A technical completeness determination shall not prevent the Director from requesting additional information at a later date when such information is considered necessary to properly evaluate the source, its air pollution abatement equipment or the facility. The Division shall complete the technical review within 90 days of receipt of a complete application or 10 days after receipt of requested additional information, whichever is later.
- (D) If the draft permit is not required to go to public notice or to public hearing, the Director shall issue or deny the permit within 90 days of receipt of a complete application



or 10 days after receipt of requested additional information, whichever is later.

- (E) If the draft permit is required to go to public notice with a request for opportunity for public hearing under Rule .0306(a) of this Section, the Director shall:

- (i) send the draft permit to public notice within 90 days after receipt of a complete application; and
- (ii) complete the review of the record and take final action on the permit within 30 days after the close of the public comment period.

- (F) If the draft permit is required to go to public hearing as a result of a request for public hearing under Rule .0307(e) of this Section, the Director shall:

- (i) send the draft permit to public hearing within 45 days after approving the request for the public hearing; and
- (ii) complete the review of the record and take final action on the permit within 30 days after the close of the public hearing.

- (2) for permit applications for prevention of significant deterioration under 15A NCAC 2D .0530, the processing schedules are set out in those Rules.

- (3) for case-by-case maximum achievable control technology under 15A NCAC 2D ~~.1109~~ .1109 or .1112:

- (A) The Division shall send written acknowledgment of receipt of the permit application to the applicant within 10 days of receipt of the application.

- (B) The Division shall review all permit applications within 45 days of receipt of the application to determine whether the application is complete or incomplete for processing purposes. The Division shall notify the applicant by letter:

- (i) stating that the application as submitted is complete and specifying the completeness date,
- (ii) stating that the application is incomplete, requesting additional information and specifying the deadline date by which the requested information is to be received by the Division, or
- (iii) stating that the application is incomplete and that the applicant rewrite and resubmit the application.

If the Division does not notify the applicant by letter dated within 45 days of receipt of the application that the application is incomplete, the application shall be deemed

complete. A completeness determination shall not prevent the Director from requesting additional information at a later date when such information is considered necessary to properly evaluate the source, its air pollution abatement equipment, or the facility. If the applicant has not provided the requested additional information by the deadline specified in the letter requesting additional information, the Director may return the application to the applicant as incomplete. The applicant may request a time extension for submittal of the requested additional information.

- (C) The Division shall determine within 60 days of receipt of a complete application if any additional information is needed to conduct the technical review of the application. A technical completeness determination shall not prevent the Director from requesting additional information at a later date when such information is considered necessary to properly evaluate the source, its air pollution abatement equipment or the facility. The Division shall complete the technical review within 120 days of receipt of a complete application or 10 days after receipt of requested additional information, whichever is later.

- (D) The Director shall:

- (i) send the draft permit to public notice within 120 days after receipt of a complete application or 10 days after receipt of requested additional information, whichever is later; and
- (ii) complete the review of the record and take final action on the permit within 30 days after the close of the public comment period.

- (E) If the draft permit is required to go to public hearing as a result of a request for public hearing under Rule .0307(e) of this Section, the Director shall:

- (i) send the draft permit to public hearing within 45 days after approving the request for the public hearing; and
- (ii) complete the review of the record and take final action on the permit within 30 days after the close of the public hearing.

- (4) requests for synthetic minor facility status before one year after EPA approves Section .0500 of this Subchapter shall be acted on within one year after EPA approves Section .0500 of this Subchapter.

- (b) The days that fall between the sending out a letter requesting additional information and receiving that additional

information shall not be counted in the schedules under Paragraph (a) of this Rule.

(c) The Director may return at any time applications containing insufficient information to complete the review.

*Authority G.S. 143-215.3(a)(1); 143-215.108.*

## SECTION .0500 - TITLE V PROCEDURES

### .0501 PURPOSE OF SECTION AND REQUIREMENT FOR A PERMIT

(a) The purpose of this Section is to establish an air quality permitting program as required under Title V and 40 CFR Part 70.

(b) The procedures and requirements under this Section do not apply until EPA approves this Section.

(c) With the exception in Paragraph (d) of this Rule, the owner or operator of an existing facility, new facility, or modification of an existing facility (except for minor modifications under Rule .0515 of this Section), including significant modifications that would not contravene or conflict with a condition in the existing permit, subject to the requirements of this Section shall not begin construction without first obtaining:

- (1) a construction and operation permit following the procedures under this Section (except for Rule .0504), or
- (2) a construction and operation permit following the procedures under Rule .0504 and filing a complete application within 12 months after commencing operation to modify the construction and operation permit to meet the requirements of this Section.

(d) If the permittee proposes to make a significant modification under Rule .0516 of this Section that would contravene or conflict with a condition in the existing permit, he shall not begin construction or make the modification until he has obtained:

- (1) a construction and operation permit following the procedures under this Section (except for Rule .0504 of this Section); or
- (2) a construction and operation permit following the procedures under Rule .0504 of this Section and, before beginning operation, files an application and obtains a permit modifying the construction and operation permit to meet the requirements of this Section (except for Rule .0504 of this Section).

(e) All facilities subject to this Section must have a permit to operate that assures compliance with 40 CFR Part 70 and all applicable requirements.

(f) Except as allowed under Rule .0515 (minor modifications) of this Section, no facility subject to the requirements of this Section may operate after the time that it is required to submit a timely and complete application under this Section except in compliance with a permit issued under this Section. This Paragraph does not apply to initial submittals under Rule .0506 of this Section or to permit renewals under Rule .0513 of this Section.

(g) If the conditions of Rule .0512(b) (application shield) of this Section are met, the facility's failure to have a permit under this Section shall not be a violation.

(h) If the owner or operator of a facility subject to the requirements of this Section submits an application for a revision to his permit before receiving the initial permit under this Section, the application for the revision shall be processed under Section .0300 of this Subchapter.

(i) The owner or operator of a facility or source subject to the requirements of this Section may also be subject to the toxic air pollutant procedures under 15A NCAC ~~2H-0610-2Q~~ .0700.

(j) The owner or operator of an affected unit subject to the acid rain program requirements of Title IV is also subject to the procedures under Section .0400 of this Subchapter.

(k) The owner or operator of a facility subject to the requirements of this Section shall pay permit fees in accordance with the requirements of Section .0200 of this Subchapter.

*Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10); 143-215.108.*

### .0527 112(g) CASE-BY-CASE MACT PROCEDURES

(a) Applicability. The owner or operator of a source required to apply maximum achievable control technology (MACT) under 15A NCAC 2D .1112 shall follow the permit procedures set out in this Rule.

(b) Construction prohibition. After July 1, 1998 a person shall not begin actual construction or reconstruction of a major source of hazardous air pollutants unless:

- (1) The major source has been specifically regulated or exempted from regulation under:

(A) 15A NCAC 2D .1109 or .1111, or

(B) a standard issued pursuant to Section 112(d), 112(h), or 112(j) of the federal Clean Air Act under 40 CFR Part 63,

and the owner and operator has fully complied with all procedures and requirements for preconstruction review established by that standard, including any applicable requirements set forth in 40 CFR Part 63, Subpart A; or

- (2) The Division has made a final and effective case-by-case determination under 15A NCAC 2D .1112 such that emissions from the constructed or reconstructed major source will be controlled to a level no less stringent than the maximum achievable control technology emission limitation for new sources.

(c) Requirements for constructed and reconstructed major sources. When a case-by-case determination of MACT is required by 15A NCAC 2D .1112, the owner and operator shall submit a permit application to the Division and the Division shall process the application following the procedures of Rule .0501(c) of this Section.

(d) Alternative operating scenarios. When applying for a permit, the owner or operator may request approval of case-

by-case MACT determinations for alternative operating scenarios. Approval of such determinations satisfies the requirements of Section 112(g) of the federal Clean Air Act for each such scenario.

(e) Application requirements for a case-by-case MACT determination. The owner or operator of a source required to apply MACT under 15A NCAC 2D .1112 shall submit a permit application that contains all the information required under 40 CFR 63.43(e).

(f) Reporting to the EPA. Within 60 days of the issuance of a permit under this Section or Section .0300 of this Subchapter incorporating a MACT determination, the Director shall provide a copy of such permit to EPA, and shall provide a summary in a compatible electronic format for inclusion in the MACT data base.

Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5), (10).

## SECTION .0700 - TOXIC AIR POLLUTANT PROCEDURES

### .0701 APPLICABILITY

(a) With the exceptions in Rule .0702 of this Section, no person shall cause or allow any toxic air pollutant named in 15A NCAC 2D .1104 to be emitted from any facility into the atmosphere at a rate that exceeds the applicable rate(s) in Rule .0711 of this Section without having received a permit to emit toxic air pollutants as follows:

- (1) new facilities according to Rule .0704 of this Section;
- (2) existing facilities according to Rule .0705 of this Section;
- (3) modifications according to Rule .0706 of this Section.

(b) Within one year after promulgation of MACT standards for the industrial boilers, commercial/institutional boilers, process heaters, stationary combustion turbines and stationary internal combustion engines source categories under Section 112 (d) of the Clean Air Act that are applicable to combustion sources as defined in Rule .0703 of this Section, the Division shall assess such MACT standards to determine whether additional measures are necessary with respect to toxic air pollutant emissions from combustion sources. Upon completion of this determination, the Division shall proceed through normal rulemaking procedures, if necessary, to implement additional measures.

Authority G.S. 143-215.3(a)(1); 143-215.108; 143B-282; S.L. 1989, c. 168, s. 45.

### .0702 EXEMPTIONS

(a) A permit to emit toxic air pollutants shall not be required under this Section for:

- (1) residential wood stoves, heaters, or fireplaces;
- (2) hot water heaters that are used for domestic purposes only and are not used to heat process

water;

- (3) maintenance, structural changes, or repairs that do not change capacity of that process, fuel-burning, refuse-burning, or control equipment, and do not involve any change in quality or nature or increase in quantity of emission of any regulated air pollutant or toxic air pollutant;
- (4) housekeeping activities or building maintenance procedures, including painting buildings, resurfacing floors, roof repair, washing, portable vacuum cleaners, sweeping, use and associated storage of janitorial products, or non-asbestos bearing insulation removal;
- (5) use of office supplies, supplies to maintain copying equipment, or blueprint machines;
- (6) paving parking lots;
- (7) replacement of existing equipment with equipment of the same size, type, and function that does not result in an increase to the actual or potential emissions of any regulated air pollutant or toxic air pollutant and that does not affect compliance status and, with replacement that fits the description of the existing equipment in the permit, including the application, such that the replacement equipment can be operated under that permit without any changes to the permit;
- (8) comfort air conditioning or comfort ventilation systems that does not transport, remove, or exhaust regulated air pollutants to the atmosphere;
- (9) equipment used for the preparation of food for direct on-site human consumption;
- (10) non-self-propelled non-road engines, except generators, regulated by rules adopted under Title II of the federal Clean Air Act;
- (11) stacks or vents to prevent escape of sewer gases from domestic waste through plumbing traps;
- (12) use of fire fighting equipment;
- (13) the use for agricultural operations by a farmer of fertilizers, pesticides, or other agricultural chemicals containing one or more of the compounds listed in 15A NCAC 2D .1104 if such compounds are applied according to agronomic practices acceptable to the North Carolina Department of Agriculture and the Commission;
- (14) asbestos demolition and renovation projects that comply with 15A NCAC 2D .1111 and that are being done by persons accredited by the Department of Environment, Health, and Natural Resources under the Asbestos Hazard Emergency Response Act;
- (15) farm and pet incinerators used only to dispose of dead animals as identified in 15A NCAC 2D .1201(d) and (e);
- (16) refrigeration equipment that is consistent with Section 601 through 618 of Title VI (Stratospheric Ozone Protection) of the federal Clean Air Act, 40

- CFR Part 82, and any other regulations promulgated by EPA under Title VI for stratospheric ozone protection, except those units used as or with air pollution control equipment:
- (17) laboratory activities:
- (A) bench-scale, on-site equipment used exclusively for chemical or physical analysis for quality control purposes, staff instruction, water or wastewater analyses, or non-production environmental compliance assessments;
- (B) bench scale experimentation, chemical or physical analyses, training or instruction from nonprofit, non-production educational laboratories;
- (C) bench scale experimentation, chemical or physical analyses, training or instruction from hospital or health laboratories pursuant to the determination or diagnoses of illnesses; and
- (D) research and development laboratory activities that are not required to be permitted under Section .0500 of this Subchapter provided the activity produces no commercial product or feedstock material;
- (18) combustion sources;
- (19) storage tanks used only to store:
- (A) inorganic liquids with a true vapor pressure less than 1.5 pounds per square inch absolute;
- (B) fuel oils, kerosene, diesel, crude oil, used motor oil, lubricants, cooling oils, natural gas, liquefied petroleum gas, or petroleum products with a true vapor pressure less than 1.5 pounds per square inch absolute;
- (20) dispensing equipment used solely to dispense diesel fuel, kerosene, lubricants or cooling oils;
- (21) portable solvent distillation systems that are exempted under 15A NCAC 2Q .0102(b)(1)(I);
- (22) processes:
- (A) small electric motor burn-out ovens with secondary combustion chambers or afterburners;
- (B) small electric motor bake-on ovens;
- (C) burn-off ovens for paint-line hangers with afterburners;
- (D) hosiery knitting machines and associated lint screens, hosiery dryers and associated lint screens, and hosiery dyeing processes where bleach or solvent dyes are not used;
- (E) blade wood planers planing only green wood;
- (F) saw mills that saw no more than 2,000,000 board feet per year provided only green wood is sawed;
- (G) perchloroethylene drycleaning processes with 12-month rolling average consumption of:
- (i) less than 1366 gallons of perchloroethylene per year for facilities with dry-to-dry machines only;
- (ii) less than 1171 gallons of perchloroethylene per year for facilities with transfer machines only; or
- (iii) less than 1171 gallons of perchloroethylene per year for facilities with both transfer and dry-to-dry machines;
- (23) gasoline dispensing facilities or gasoline service station operations that comply with 15A NCAC 2D .0928 and .0932 and that receive gasoline from bulk gasoline plants or bulk gasoline terminals that comply with 15A NCAC 2D .0524, .0925, .0926, .0927, .0932, and .0933 via tank trucks that comply with 15A NCAC 2D .0932;
- (24) the use of ethylene oxide as a sterilant in the production and subsequent storage of medical devices or the packaging and subsequent storage of medical devices for sale if the emissions from all new and existing sources at the facility described in 15A NCAC 2D .0538(d) are controlled at least to the degree described in 15A NCAC 2D .0538(d) and the facility complies with 15A NCAC 2D .0538(e) and (f);
- (25) bulk gasoline plants, including the storage and handling of fuel oils, kerosenes, and jet fuels but excluding the storage and handling of other organic liquids, that comply with 15A NCAC 2D .0524, .0925, .0926, .0932, and .0933; unless the Director finds that a permit to emit toxic air pollutants is required under this Section for a particular bulk gasoline plant; or
- (26) bulk gasoline terminals, including the storage and handling of fuel oils, kerosenes, and jet fuels but excluding the storage and handling of other organic liquids, that comply with 15A NCAC 2D .0524, .0925, .0927, .0932, and .0933 if the bulk gasoline terminal existed before November 1, 1992; unless:
- (A) the Director finds that a permit to emit toxic air pollutants is required under this Section for a particular bulk gasoline terminal, or
- (B) the owner or operator of the bulk gasoline terminal meets the requirements of 15A NCAC 2D .0927(i);
- (b) Emissions from the activities identified Subparagraphs (a)(23) through (a)(26) of this Rule shall be included in determining compliance with the toxic air pollutant requirements in this Section and shall be included in the permit if necessary to assure compliance.
- (c) The addition or modification of an activity identified in Paragraph (a) of this Rule shall not cause the source or facility to be evaluated for emissions of toxic air pollutants.
- (d) Because an activity is exempted from being required to have a permit does not mean that the activity is exempted

from any applicable requirement or that the owner or operator of the source is exempted from demonstrating compliance with any applicable requirement.

Authority G.S. 143-215.3(a)(1); 143-215.108; 143B-282; S.L. 1989, c. 168, s. 45.

### .0703 DEFINITIONS

For the purposes of this Section, the following definitions apply:

(1) "Actual rate of emissions" means:

(a) for existing sources:

- (i) for toxic air pollutants with an annual averaging period, the average rate or rates at which the source actually emitted the pollutant during the two-year period preceding the date of the particular modification and that represents normal operation of the source. If this period does not represent normal operation, the Director may allow the use of a different, more representative, period.
- (ii) for toxic air pollutants with a 24-hour or one-hour averaging period, the maximum actual emission rate at which the source actually emitted for the applicable averaging period during the two-year period preceding the date of the particular modification and that represents normal operation of the source. If this period does not represent normal operation, the Director may require or allow the use of a different, more representative, period.

(b) for new or modified sources, the average rate or rates, determined for the applicable averaging period(s), that the proposed source will actually emit the pollutant as determined by engineering evaluation.

(2) "Applicable averaging period" means the averaging period for which an acceptable ambient limit has been established by the Commission and is listed in 15A NCAC 2D .1104.

(3) "CAS Number" means the Chemical Abstract Service registry number identifying a particular substance.

(4) "Combustion sources" means boilers, space heaters, process heaters, internal combustion engines, and combustion turbines, which burn only unadulterated wood or unadulterated fossil fuel. It does not include incinerators, waste combustors, kilns, dryers, or direct heat exchange industrial processes.

(5) "Creditable emissions" means actual decreased

emissions that have not been previously relied on to comply with Subchapter 15A NCAC 2D. All creditable emissions shall be enforceable by permit condition.

(6) "Cresol" means o-cresol, p-cresol, m-cresol, or any combination of these compounds.

(7) "Evaluation" means:

(a) a determination that the emissions from the facility, including emissions from sources exempted by Rule .0702(a)(23) through (26) of this Section, are less than the rate listed in Rule .0711 of this Section; or

(b) a determination of ambient air concentrations as described under 15A NCAC 2D .1106, including emissions from sources exempted by Rule .0702(23) through (26) of this Section.

(8) "GACT" means any generally available control technology emission standard applied to an area source or facility pursuant to Section 112 of the federal Clean Air Act.

(9) "Hexane isomers except n-hexane" means 2-methyl pentane, 3-methyl pentane, 2,2-dimethyl butane, 2,3-dimethyl butane, or any combination of these compounds.

(10) "MACT" means any maximum achievable control technology emission standard applied to a source or facility pursuant to Section 112 federal Clean Air Act.

(11) "Maximum feasible control" means the maximum degree of reduction for each pollutant subject to regulation under this Section using the best technology that is available taking into account, on a case-by-case basis, human health, energy, environmental, and economic impacts and other costs.

(12) "Modification" means any physical changes or changes in the methods of operation that result in a net increase in emissions or ambient concentration of any pollutant listed in Rule .0711 of this Section or that result in the emission of any pollutant listed in Rule .0711 of this Section not previously emitted.

(13) "Net increase in emissions" means for a modification the sum of any increases in permitted allowable and decreases in the actual rates of emissions from the proposed modification from the sources at the facility for which the air permit application is being filed. If the net increase in emissions from the proposed modification is greater than zero, all other increases in permitted allowable and decreases in the actual rates of emissions at the facility within five years immediately preceding the filing of the air permit application for the proposed modification that are otherwise creditable emissions may be included.

- (14) "Polychlorinated biphenyls" means any chlorinated biphenyl compound or mixture of chlorinated biphenyl compounds.
- (15) "Pollution prevention plan" means a written description of current and projected plans to reduce, prevent, or minimize the generation of pollutants by source reduction and recycling and includes a site-wide assessment of pollution prevention opportunities at a facility that addresses sources of air pollution, water pollution, and solid and hazardous waste generation.
- (16) "SIC" means standard industrial classification code.
- (17) "Toxic air pollutant" means any of those carcinogens, chronic toxicants, acute systemic toxicants, or acute irritants listed in 15A NCAC 2D .1104.
- (18) "Unadulterated wood" means wood that is not painted, varnished, stained, oiled, waxed, or otherwise coated or treated with any chemical. Plywood, particle board, and resinated wood are not unadulterated wood.

Authority G.S. 143-215.3(a)(1); 143-215.108; 143B-282; S.L. 1989, c. 168, s. 45.

#### .0704 NEW FACILITIES

(a) This Rule applies only to facilities that begin construction after September 30, 1993.

(b) The owner or operator of a facility that:

- (1) is required to have a permit because of applicability of a Section in Subchapter 2D of this Chapter other than Section .1100 of Subchapter 2D of this Chapter except for facilities whose emissions of toxic air pollutants result only from sources exempted under Rule .0102 of this Subchapter;
- (2) has one or more sources subject to a MACT or GACT standard that has previously been promulgated under Section 112(d) of the federal Clean Air Act or established under Section 112(e) or 112(j) of the Clean Air Act; or
- (3) has a standard industrial classification code that has previously been called under Rule .0705 of this Section;

shall have received a permit to emit toxic air pollutants before beginning construction, and shall comply with such permit when beginning operation.

(c) The owner or operator of a facility subject to this Rule who has not received a permit to emit toxic air pollutants under Paragraph (b) of this Rule shall apply for a permit to emit toxic air pollutants according to Paragraph (b) or (c) of Rule .0705 of this Section.

Authority G.S. 143-215.3(a)(1); 143-215.108; 143B-282; S.L. 1989, c. 168, s. 45.

#### .0705 EXISTING FACILITIES AND SIC CALLS

(a) This Rule applies only to facilities that were in

operation or permitted to construct before October 1, 1993 and new facilities subject to Rule .0704 (c) of this Section.

(b) For sources at a facility subject to a MACT or GACT standard, or that may be subject to a MACT or GACT standard based on studies required by Section 112 (n)(1) of the Clean Air Act, 42 U.S.C. Section 7412 (n)(1), the owner or operator of the facility shall comply with 15A NCAC 2D .1100 as follows:

- (1) When the owner or operator submits a permit application to comply with the last MACT or GACT, excluding the MACT or GACT for combustion sources, known to apply to the facility, he shall also submit a permit application to comply with 15A NCAC 2D .1100. The facility shall comply with 15A NCAC 2D .1100 by the same deadline that it is required to comply with the last MACT or GACT.
- (2) If the owner or operator does not have to submit a permit application to comply with the last MACT or GACT, excluding the MACT or GACT for combustion sources, he shall submit a permit application to comply with 15A NCAC 2D .1100 within six months after the promulgation of the last MACT or GACT, excluding the MACT or GACT for combustion sources, known to apply to the facility or by January 1, 1999, whichever is later. The facility shall comply with 15A NCAC 2D .1100 by the same deadline that it is required to comply with the last MACT or GACT.
- (3) If the owner or operator submitted a permit application for the last MACT or GACT, excluding the MACT or GACT for combustion sources, known to apply to the facility before July 1, 1998, he shall submit a permit application to comply with 15A NCAC 2D .1100 by January 1, 1999. The facility shall comply with 15A NCAC 2D .1100 within three years from the date that the permit is issued.

The permit application shall include an evaluation for all toxic air pollutants covered under 15A NCAC 2D .1104 for all sources at the facility, excluding those sources exempt from evaluation under Rule .0702 of this Section. The owner or operator of a facility whose actual rate of emissions from all sources are not greater than the toxic permitting emissions rates listed in Rule .0711 of this Section does not have to file a permit application to comply with 15A NCAC 2D .1100. He shall provide documentation that the facility's emissions of toxic air pollutants are below the levels in Rule .0711 of this Section if the Director requests this documentation.

(c) For facilities that will not be subject to a MACT or GACT standard, or that will be subject only to a MACT or GACT standard for unadulterated fuel combustion sources, the owner or operator of the facility shall have 180 days to apply for a permit or permit modification for the emissions of toxic air pollutants after receiving written notification from the Director that such permit or permit modification is required. The permit application shall include an evaluation



for all toxic air pollutants covered under 15A NCAC 2D .1104 for all sources at the facility, excluding sources exempt from evaluation in Rule .0702 of this Section. Such facilities shall comply with 15A NCAC 2D .1100 within three years from the date that the permit is issued. The Director shall notify facilities subject to this Paragraph by calling for permit applications based on standard industrial classifications, that is, the Director shall call at one time for permits for all facilities statewide that have the same four-digit standard industrial classification code, except those facilities in certified local air pollution control agency areas. (Local air pollution control agencies shall call the standard industrial classification code within their jurisdiction when the Director calls that code. A local air pollution control agency may call a particular standard industrial classification code before the Director calls that code if the Commission approves the call by the local air pollution control agency.) Facilities with sources that will be subject to MACT that receive an SIC call shall notify the Director and shall comply with 2D .1100 in accordance with Paragraph (b) of this Rule. All sources, regardless of their standard industrial classification code, excluding sources exempt from evaluation in Rule .0702 of this Section, at the facility shall be included in the call for permit applications. When the Environmental Protection Agency (EPA) promulgates MACT under Section 112(e) of the federal Clean Air Act, excluding cooling towers, the Director shall notify the owners or operators of facilities in the standard industrial classification that best corresponds to the MACT category that they are required to submit a permit application for the emissions of toxic air pollutants from their facilities. If the EPA fails to promulgate a MACT as scheduled, the Director shall notify the owners or operators of facilities 18 months after the missed promulgation date that they are required to submit a permit application for the emissions of toxic air pollutants from their facilities. The owner or operator of a facility whose actual rate of emissions from all sources are not greater than the toxic permitting emissions rates listed in Rule .0711 of this Section does not have to file a permit application to comply with 15A NCAC 2D .1100. He shall provide documentation that the facility's emissions of toxic air pollutants are below the levels in Rule .0711 of this Section if the Director requests this documentation.

(d) The owner or operator of a facility may request a permit to emit toxic air pollutants any time before such application is required. The permit application shall include an evaluation for all toxic air pollutants covered under 15A NCAC 2D .1104 for all sources at the facility, excluding sources exempt from evaluation in Rule .0702 of this Section.

Authority G.S. 143-215.3(a)(1); 143-215.108; 143B-282; S.L. 1989, c. 168, s. 45.

#### .0706 MODIFICATIONS

(a) For modification of any facility undertaken after September 30, 1993, that:

- (1) is required to have a permit because of applicability of a Section in Subchapter 2D of this Chapter other than Section .1100 of Subchapter 2D of this Chapter except for facilities whose emissions of toxic air pollutants result only from sources exempted under Rule .0102 of this Subchapter;
- (2) has one or more sources subject to a MACT or GACT standard that has previously been promulgated under Section 112(d) of the federal Clean Air Act or established under Section 112(e) or 112(j) of the Clean Air Act; or
- (3) has a standard industrial classification code that has previously been called under Rule .0705 of this Section;

the owner or operator of the facility shall comply with Paragraphs (b) and (c) of this Rule.

(b) The owner or operator of the facility shall submit a permit application to comply with 15A NCAC 2D .1100 if:

- (1) The modification results in:
  - (A) a net increase in emissions of any toxic air pollutant that the facility was emitting before the modification; or
  - (B) emissions of any toxic air pollutant that the facility was not emitting before the modification if such emissions exceed the levels contained in Rule .0711 of this Section; or
- (2) The Director finds that the modification of the facility will significantly increase the risk to human health posed by the facility. The Director shall provide the findings to the owner or operator of the facility. The Director may require the owner or operator of a facility subject to this Subparagraph to provide a satisfactory evaluation showing what the resultant emissions and increase of risk to human health from the modified facility will be.

(c) The permit application filed pursuant to this Rule shall include an evaluation for all toxic air pollutants covered under 15A NCAC 2D .1104 for which there is:

- (1) a net increase in emissions of any toxic air pollutant that the facility was emitting before the modification; and
- (2) emission of any toxic air pollutant that the facility was not emitting before the modification if such emissions exceed the levels contained in Rule .0711 of this Section.

All sources at the facility, excluding sources exempt from evaluation in Rule .0702 of this Section, emitting these toxic air pollutants shall be included in the evaluation. A permit application filed pursuant to Subparagraph (b)(2) of this Rule shall include an evaluation for all toxic air pollutants identified by the Director as significantly increasing the risk to human health.

Authority G.S. 143-215.3(a)(1); 143-215.108; 143B-282; S.L. 1989, c. 168, s. 45.

# **.0707 PREVIOUSLY PERMITTED FACILITIES**

(a) A facility that received a permit to emit toxic air pollutants before October 1, 1993, shall continue to operate under the terms of that permit. The emissions of toxic air pollutants resulting from the subsequent modification of the facility shall be regulated pursuant to Rule .0706 of this Section.

(b) A facility that has received a permit to emit toxic air pollutants before October 1, 1993, that is operating under a compliance schedule previously approved by the Director, and that will be subject to a MACT or GACT standard shall comply with the terms of that compliance schedule unless the owner or operator of the facility demonstrates to the satisfaction of the Director that compliance requires substantial capital expenditures that may be rendered unnecessary when MACT or GACT is applied. Where such a demonstration is made, the owner or operator of the facility shall submit a permit application to comply with 15A NCAC 2D .1100 according to Rules .0705 or .0706 of this Section.

Authority G.S. 143-215.3(a)(1); 143-215.108; 143B-282; S.L. 1989, c. 168, s. 45.

# **.0708 COMPLIANCE SCHEDULE FOR PREVIOUSLY UNKNOWN TOXIC AIR POLLUTANT EMISSIONS**

(a) The owner or operator of a facility permitted to emit toxic air pollutants shall submit a permit application within six months after the owner or operator learns of an emission of a previously unknown toxic air pollutant from a permitted source that would have been included in the permit when it was issued. The application shall include the information required by Paragraph (b) of this Rule.

(b) When an application to revise a permit is submitted under this Rule, the owner or operator shall in addition to the application, submit to the Director:

- (1) an evaluation for the pollutant according to this Section and Section 2D .1100 that demonstrates compliance with the acceptable ambient level in 15A NCAC 2D .1104; or
- (2) a compliance schedule containing the information required under Paragraph (c) of this Rule for the proposed modifications to the facility required to comply with the acceptable ambient level according to this Section and Section 15A NCAC 2Q .1100.

(c) The compliance schedule required under Subparagraph (b)(2) of this Rule shall contain the following increments of progress as applicable:

- (1) a date by which contracts for emission control and process equipment shall be awarded or orders shall be issued for the purchase of component parts;
- (2) a date by which on-site construction or installation of the emission control and process equipment shall begin;
- (3) a date by which on-site construction or installation of the emission control and process equipment shall

be completed; and

- (4) the date by which final compliance shall be achieved.

(d) Final compliance shall be achieved no later than:

- (1) six months after the permit modification or renewal is issued if construction or installation of emission control or process equipment is not required; or
- (2) one year after the permit modification or renewal is issued if construction or installation of emission control or process equipment is required; or
- (3) the time that is normally required to construct a stack or install other dispersion enhancement modifications but not more than one year after the permit modification or renewal is issued; or
- (4) the time established pursuant to Director's approval of a case by case request for an extension.

(e) The owner or operator shall certify to the Director within ten days after each applicable deadline for each increment of progress required under Paragraph (c) of this Rule whether the required increment of progress has been met.

Authority G.S. 143-215.3(a)(1); 43-215.107(a)(3), (5); 143B-282; S.L. 1989, c. 168, s. 45.

# **.0709 DEMONSTRATIONS**

(a) Demonstrations. The owner or operator of a source who is applying for a permit or permit modification to emit toxic air pollutants shall:

- (1) demonstrate to the satisfaction of the Director through dispersion modeling that the emissions of toxic air pollutants from the facility will not cause any acceptable ambient level listed in 15A NCAC 2D .1104 to be exceeded beyond the premises (adjacent property boundary); or
- (2) demonstrate to the satisfaction of the Commission or its delegate that the ambient concentration beyond the premises (adjacent property boundary) for the subject toxic air pollutant will not adversely affect human health (e.g., a risk assessment specific to the facility) though the concentration is higher than the acceptable ambient level in 15A NCAC 2D .1104 by providing one of the following demonstrations:

- (A) the area where the ambient concentrations are expected to exceed the acceptable ambient levels in 15A NCAC 2D .1104 is not inhabitable or occupied for the duration of the averaging time of the pollutant of concern; or
- (B) new toxicological data that show that the acceptable ambient level in 15A NCAC 2D .1104 for the pollutant of concern is too low and the facility's ambient impact is below the level indicated by the new toxicological data.

(b) Technical Infeasibility and Economic Hardship. This Paragraph shall not apply to any incinerator covered under



15A NCAC 2D .1200. The owner or operator of any source constructed before May 1, 1990, or a perchloroethylene dry cleaning facility subject to a GACT standard under 40 CFR 63.320 through 63.325 who cannot supply a demonstration described in Paragraph (a) of this Rule shall:

- (1) demonstrate to the satisfaction of the Commission or its delegate that complying with the guidelines in 15A NCAC 2D .1104 is technically infeasible (the technology necessary to reduce emissions to a level to prevent the acceptable ambient levels in 15A NCAC 2D .1104 from being exceeded does not exist); or
- (2) demonstrate to the satisfaction of the Commission or its delegate that complying with the guidelines in 15A NCAC 2D .1104 would result in serious economic hardship.

If the owner or operator makes a demonstration to the satisfaction of the Commission or its delegate pursuant to Subparagraphs (1) or (2) of this Paragraph, the Director shall require the owner or operator of the source to apply maximum feasible control. Maximum feasible control shall be in place and operating within three years from the date that the permit is issued for the maximum feasible control.

(c) Pollution Prevention Plan. The owner or operator of any facility using the provisions of Part (a)(2)(A) or Paragraph (b) of this Rule shall develop and implement a pollution prevention plan consisting of the following minimum elements:

- (1) statement of corporate and facility commitment to pollution prevention;
- (2) identification of current and past pollution prevention activities;
- (3) timeline and strategy for implementation;
- (4) description of ongoing and planned employee education efforts;
- (5) identification of internal pollution prevention goal selected by the facility and expressed in either qualitative or quantitative terms.

The facility shall submit along with the permit application the pollution prevention plan. The pollution prevention plan shall be maintained on site. A progress report on implementation of the plan shall be prepared by the facility annually and be made available to Division personnel for review upon request.

(d) Modeling Demonstration. If the owner or operator of a facility demonstrates by modeling that no toxic air pollutant emitted from the facility exceeds the acceptable ambient level values given in 15A NCAC 2D .1104 beyond the facility's premises, further modeling demonstration is not required with the permit application. However, the Commission may still require more stringent emission levels according to its analysis under 15A NCAC 2D .1107.

Authority G.S. 143-215.3(a)(1); 143-215.108; 143B-282; S.L. 1989, c. 168, s. 45.

## PUBLIC HEARING

(a) If the owner or operator of a facility chooses to make a demonstration pursuant to Rule .0709 (a)(2) or (b) of this Section, the Commission or its delegate shall approve or disapprove the permit after a public notice with an opportunity for a public hearing.

(b) The public notice shall be given by publication in a newspaper of general circulation in the area where the facility is located and shall be mailed to persons who are on the Division's mailing list for air quality permit notices.

(c) The public notice shall identify:

- (1) the affected facility;
- (2) the name and address of the permittee;
- (3) the name and address of the person to whom to send comments and requests for public hearing;
- (4) the name, address, and telephone number of a Divisional staff person from whom interested persons may obtain additional information, including copies of the draft permit, the application, compliance plan, pollution prevention plan, monitoring and compliance reports, all other relevant supporting materials, and all other materials available to the Division that are relevant to the permit decision;
- (5) the activity or activities involved in the permit action;
- (6) any emissions change involved in any permit modification;
- (7) a brief description of the public comment procedures;
- (8) the procedures to follow to request a public hearing unless a public hearing has already been scheduled; and
- (9) the time and place of any hearing that has already been scheduled.

(d) The notice shall allow at least 30 days for public comments.

(e) If the Director determines that significant public interest exists or that the public interest will be served, the Director shall require a public hearing to be held on a draft permit. Notice of a public hearing shall be given at least 30 days before the public hearing.

(f) The Director shall make available for public inspection in at least one location in the region affected, the information submitted by the permit applicant and the Division's analysis of that application.

(g) Any persons requesting copies of material identified in Subparagraph (b)(4) of this Rule shall pay ten cents (\$0.10) a page for each page copied. Confidential material shall be handled in accordance with Rule .0107 of this Subchapter.

Authority G.S. 143-215.3(a)(1); 143-215.108; 143B-282; S.L. 1989, c. 168, s. 45.

## .0710 PUBLIC NOTICE AND OPPORTUNITY FOR

**.0711 EMISSION RATES REQUIRING A PERMIT**

A permit to emit toxic air pollutants shall be required for any facility whose actual (or permitted if higher) rate of emissions from all sources are greater than any one of the following toxic air pollutant permitting emissions rates:

<u>Pollutant (CAS Number)</u>	<u>Carcinogens</u>  lb/yr	<u>Chronic Toxicants</u>  lb/day	<u>Acute Systemic Toxicants</u>  lb/hr	<u>Acute Irritants</u>  lb/hr
<u>acetaldehyde (75-07-0)</u>				<u>6.8</u>
<u>acetic acid (64-19-7)</u>				<u>0.96</u>
<u>acrolein (107-02-8)</u>				<u>0.02</u>
<u>acrylonitrile (107-13-1)</u>	<u>10</u>			
<u>ammonia (7664-41-7)</u>				<u>0.68</u>
<u>ammonium chromate (7788-98-9)</u>		<u>0.013</u>		
<u>ammonium dichromate (7789-09-5)</u>		<u>0.013</u>		
<u>aniline (62-53-3)</u>			<u>0.25</u>	
<u>arsenic and inorganic arsenic compounds</u>	<u>0.016</u>			
<u>asbestos (1332-21-4)</u>	<u>1.9 X 10<sup>-6</sup></u>			
<u>aziridine (151-56-4)</u>		<u>0.13</u>		
<u>benzene (71-43-2)</u>	<u>8.1</u>			
<u>benzidine and salts (92-87-5)</u>	<u>0.0010</u>			
<u>benzo(a)pyrene (50-32-8)</u>	<u>2.2</u>			
<u>benzyl chloride (100-44-7)</u>			<u>0.13</u>	
<u>beryllium (7440-41-7)</u>	<u>0.28</u>			
<u>beryllium chloride (7787-47-5)</u>	<u>0.28</u>			
<u>beryllium fluoride (7787-49-7)</u>	<u>0.28</u>			
<u>beryllium nitrate (13597-99-4)</u>	<u>0.28</u>			
<u>bis-chloromethyl ether (542-88-1)</u>	<u>0.025</u>			
<u>bromine (7726-95-6)</u>				<u>0.052</u>
<u>1,3-butadiene (106-99-0)</u>	<u>12</u>			
<u>cadmium (7440-43-9)</u>	<u>0.37</u>			
<u>cadmium acetate (543-90-8)</u>	<u>0.37</u>			
<u>cadmium bromide (7789-42-6)</u>	<u>0.37</u>			
<u>calcium chromate (13765-19-0)</u>	<u>0.0056</u>			
<u>carbon disulfide (75-15-0)</u>		<u>3.9</u>		
<u>carbon tetrachloride (56-23-5)</u>	<u>460</u>			

**PROPOSED RULES**

<u>Pollutant (CAS Number)</u>	<u>Carcinogens</u>  lb/yr	<u>Chronic Toxicants</u>  lb/day	<u>Acute Systemic Toxicants</u>  lb/hr	<u>Acute Irritants</u>  lb/hr
<u>chlorine (7782-50-5)</u>		<u>0.79</u>		<u>0.23</u>
<u>chlorobenzene (108-90-7)</u>		<u>46</u>		
<u>chloroform (67-66-3)</u>	<u>290</u>			
<u>chloroprene (126-99-8)</u>		<u>9.2</u>	<u>0.89</u>	
<u>chromic acid (7783-94-5)</u>		<u>0.013</u>		
<u>chromium (vi)</u>	<u>0.0056</u>			
<u>cresol (1319-77-3)</u>			<u>0.56</u>	
<u>p-dichlorobenzene (106-46-7)</u>				<u>16.8</u>
<u>dichlorodifluoromethane (75-71-8)</u>		<u>5200</u>		
<u>dichlorofluoromethane (75-43-4)</u>		<u>10</u>		
<u>di(2-ethylhexyl)phthalate (117-81-7)</u>		<u>0.63</u>		
<u>dimethyl sulfate (77-78-1)</u>		<u>0.063</u>		
<u>1,4-dioxane (123-91-1)</u>		<u>12</u>		
<u>epichlorohydrin (106-89-8)</u>	<u>5600</u>			
<u>ethyl acetate (141-78-6)</u>			<u>36</u>	
<u>ethylenediamine (107-15-3)</u>		<u>6.3</u>	<u>0.64</u>	
<u>ethylene dibromide (106-93-4)</u>	<u>27</u>			
<u>ethylene dichloride (107-06-2)</u>	<u>260</u>			
<u>ethylene glycol monoethyl ether (110-80-5)</u>		<u>2.5</u>	<u>0.48</u>	
<u>ethylene oxide (75-21-8)</u>	<u>1.8</u>			
<u>ethyl mercaptan (75-08-1)</u>			<u>0.025</u>	
<u>fluorides</u>		<u>0.34</u>	<u>0.064</u>	
<u>formaldehyde (50-00-0)</u>				<u>0.04</u>
<u>hexachlorocyclopentadiene (77-47-4)</u>		<u>0.013</u>	<u>0.0025</u>	
<u>hexachlorodibenzo-p-dioxin (57653-85-7)</u>	<u>0.0051</u>			
<u>n-hexane (110-54-3)</u>		<u>23</u>		
<u>hexane isomers except n-hexane</u>				<u>92</u>
<u>hydrazine (302-01-2)</u>		<u>0.013</u>		
<u>hydrogen chloride (7647-01-0)</u>				<u>0.18</u>

**PROPOSED RULES**

<u>Pollutant (CAS Number)</u>	<u>Carcinogens</u>  lb/yr	<u>Chronic Toxicants</u>  lb/day	<u>Acute Systemic Toxicants</u>  lb/hr	<u>Acute Irritants</u>  lb/hr
<u>hydrogen cyanide (74-90-8)</u>		<u>2.9</u>	<u>0.28</u>	
<u>hydrogen fluoride (7664-39-3)</u>		<u>0.63</u>		<u>0.064</u>
<u>hydrogen sulfide (7783-06-4)</u>				<u>0.52</u>
<u>maleic anhydride (108-31-6)</u>		<u>0.25</u>	<u>0.025</u>	
<u>manganese and compounds</u>		<u>0.63</u>		
<u>manganese cyclopentadienyl tricarbonyl (12079-65-1)</u>		<u>0.013</u>		
<u>manganese tetroxide (1317-35-7)</u>		<u>0.13</u>		
<u>mercury, alkyl</u>		<u>0.0013</u>		
<u>mercury, aryl and inorganic compounds</u>		<u>0.013</u>		
<u>mercury, vapor (7439-97-6)</u>		<u>0.013</u>		
<u>methyl chloroform (71-55-6)</u>		<u>250</u>		<u>64</u>
<u>methylene chloride (75-09-2)</u>	<u>1600</u>		<u>0.39</u>	
<u>methyl ethyl ketone (78-93-3)</u>		<u>78</u>		<u>22.4</u>
<u>methyl isobutyl ketone (108-10-1)</u>		<u>52</u>		<u>7.6</u>
<u>methyl mercaptan (74-93-1)</u>			<u>0.013</u>	
<u>nickel carbonyl (13463-39-3)</u>		<u>0.013</u>		
<u>nickel metal (7440-02-0)</u>		<u>0.13</u>		
<u>nickel, soluble compounds, as nickel</u>		<u>0.013</u>		
<u>nickel subsulfide (12035-72-2)</u>	<u>0.14</u>			
<u>nitric acid (7697-37-2)</u>				<u>0.256</u>
<u>nitrobenzene (98-95-3)</u>		<u>1.3</u>	<u>0.13</u>	
<u>N-nitrosodimethylamine (62-75-9)</u>	<u>3.4</u>			
<u>pentachlorophenol (87-86-5)</u>		<u>0.063</u>	<u>0.0064</u>	
<u>perchloroethylene (127-18-4)</u>	<u>13000</u>			
<u>phenol (108-95-2)</u>			<u>0.24</u>	
<u>phosgene (75-44-5)</u>		<u>0.052</u>		
<u>phosphine (7803-51-2)</u>				<u>0.032</u>
<u>polychlorinated biphenyls (1336-36-3)</u>	<u>5.6</u>			

**PROPOSED RULES**

<u>Pollutant (CAS Number)</u>	<u>Carcinogens</u>  <u>lb/yr</u>	<u>Chronic Toxicants</u>  <u>lb/day</u>	<u>Acute Systemic Toxicants</u>  <u>lb/hr</u>	<u>Acute Irritants</u>  <u>lb/hr</u>
<u>potassium chromate (7789-00-6)</u>		<u>0.013</u>		
<u>potassium dichromate (7778-50-9)</u>		<u>0.013</u>		
<u>sodium chromate (7775-11-3)</u>		<u>0.013</u>		
<u>sodium dichromate (10588-01-9)</u>		<u>0.013</u>		
<u>strontium chromate (7789-06-2)</u>	<u>0.0056</u>			
<u>styrene (100-42-5)</u>			<u>2.7</u>	
<u>sulfuric acid (7664-93-9)</u>		<u>0.25</u>	<u>0.025</u>	
<u>tetrachlorodibenzo-p-dioxin (1746-01-6)</u>	<u>0.00020</u>			
<u>1,1,1,2-tetrachloro-2,2,-difluoroethane (76-11-9)</u>		<u>1100</u>		
<u>1,1,1,2-tetrachloro-1,2,-difluoroethane (76-12-0)</u>		<u>1100</u>		
<u>1,1,1,2-tetrachloroethane (79-34-5)</u>	<u>430</u>			
<u>toluene (108-88-3)</u>		<u>98</u>		<u>14.4</u>
<u>toluene diisocyanate, 2,4-(584-84-9) and 2,6- (91-08-7) isomers</u>		<u>0.003</u>		
<u>trichloroethylene (79-01-6)</u>	<u>4000</u>			
<u>trichlorofluoromethane (75-69-4)</u>		<u>140</u>		
<u>1,1,2-trichloro-1,2,2,-trifluoroethane (76-13-1)</u>				<u>240</u>
<u>vinyl chloride (75-01-4)</u>	<u>26</u>			
<u>vinylidene chloride (75-35-4)</u>		<u>2.5</u>		
<u>xylene (1330-20-7)</u>		<u>57</u>		<u>16.4</u>
<u>zinc chromate (13530-65-9)</u>	<u>0.0056</u>			

Authority G.S. 143-215.3(a)(1); 143-215.108; 143B-282; S.L. 1989, c. 168, s. 45.

**.0712 CALLS BY THE DIRECTOR**

Notwithstanding any other provision of this Section or 15A NCAC 2D .1104, upon a written finding that a source or facility emitting toxic air pollutants presents an unacceptable risk to human health based on the acceptable ambient levels in 15A NCAC 2D .1104 or epidemiology studies, the Director may require the owner or operator of the source or facility to submit a permit application to comply with 15A NCAC 2D .1100 for any or all of the toxic air pollutants emitted from

the facility.

Authority G.S. 143-215.3(a)(1); 143-215.108; 143B-282; S.L. 1989, c. 168, s. 45.

**.0713 POLLUTANTS WITH OTHERWISE APPLICABLE FEDERAL STANDARDS OR REQUIREMENTS**

(a) This Rule applies to the establishment of emission

limitations or any other requirements pursuant to the requirements of this Section or 15A NCAC 2D .1100 for which a standard or requirement has been promulgated under Section 112 of the federal Clean Air Act including those contained in 15A NCAC 2D .1110 and .1111.

(b) For each facility subject to emission standards or requirements under Section 112 of the federal Clean Air Act, permits issued or revised according to Section .0500 of this Subchapter shall contain specific conditions that:

- (1) reflect applicability criteria no less stringent than those in the otherwise applicable federal standards or requirements;
- (2) require levels of control for each affected facility and source no less stringent than those contained in the otherwise applicable federal standards or requirements;
- (3) require compliance and enforcement measures for each facility and source no less stringent than those in the otherwise applicable federal standards or requirements;
- (4) express levels of control, compliance, and enforcement measures in the same form and units of measure as the otherwise applicable federal standards or requirements; and
- (5) assure compliance by each affected facility no later than would be required by the otherwise applicable federal standard or requirement.

Authority G.S. 143-215.3(a)(1); 143-215.108; 143B-282; S.L. 1989, c. 168, s. 45.

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Notice is hereby given in accordance with G.S. 150B-21.2 that the Environmental Management Commission intends to adopt rules cited as 15A NCAC 2R .0501 - .0504. Notice of Rule-making Proceedings was published in the Register on May 1, 1997.

**Proposed Effective Date:** August 1, 1998

A Public Hearing will be conducted at 7:00 p.m. on November 3, 1997 at the Groundfloor Hearing Room, Archdale Building, 512 N. Salisbury Street, Raleigh, NC.

**Reason for Proposed Action:** During the 1996 session of the North Carolina General Assembly, Article 21 of Chapter 143 of the General Statutes was amended by adding sections 143-214.8 through 214.13. These sections established the Wetlands Restoration Program as a non-regulatory statewide program for the acquisition, maintenance, restoration, enhancement, and creation of wetlands and riparian resources that contribute to the protection and improvement of water quality, flood prevention, fisheries, wildlife habitat, and recreational opportunities. The purpose of this rule-making initiative is to establish the Wetlands Restoration Fund, which is a component of the Wetlands Restoration Program, and a

standardized schedule of per acre payment amounts for individuals to voluntarily pay into the fund in lieu of compensatory mitigation requirements.

**Comment Procedures:** Comments, statements, data and other information may be submitted in writing by November 14, 1997. Copies of the proposed rules and information concerning the rules may be obtained by contacting the Wetlands Restoration Program at (919) 733-5083 ext. 358 or by submitting to Ron Ferrell, Wetlands Restoration Program, Division of Water Quality, PO Box 29535, Raleigh, NC 27626-0535.

**Fiscal Note:** Rules 15A NCAC 2R .0502 - .0504 do not affect the expenditures or revenues of state or local government funds; 15A NCAC 2R .0501 does affect state government funds, but does not affect local government funds. These Rules do not have a substantial economic impact of at least five million dollars (\$5,000,000) in a 12-month period.

## CHAPTER 2 - ENVIRONMENTAL MANAGEMENT

### SUBCHAPTER 2R - WETLANDS RESTORATION PROGRAM

#### SECTION .0500 - WETLANDS RESTORATION FUND

##### .0501 PURPOSE

(a) The purpose of the Wetlands Restoration Fund (Fund) is to provide a repository for monetary contributions or payments and donations or dedications of interests in real property. Fund assets will be used to promote the restoration, enhancement, preservation, or creation of wetlands and riparian areas. Fund assets will only be used for the purpose of contributing directly to the acquisition, perpetual maintenance, enhancement, restoration, or creation of wetlands and riparian areas as described in G.S. 143-214.8-13 in accordance with the wetlands restoration plans developed for each river basin.

(b) Payments into the Fund as determined in accordance with Rule .0502 of this Section shall be considered as compliance with the compensatory mitigation requirements of certifications issued by the Department under 33 U.S.C. § 1341; and permits or authorizations issued by the United States Army Corps of Engineers under 33 U.S.C. § 1344 if the contributions will meet the mitigation requirements of the U. S. Army Corps of Engineers.

(c) Donations or dedications of interest in real property may be accepted if consistent with the goals and objectives of the restoration plan for the river basin as determined by the Secretary or Designee.

Authority G.S. 143-214.11; 143-214.12.

##### .0502 DEFINITIONS

(a) Compensatory mitigation means the restoration, creation, enhancement or preservation of wetlands, riparian

areas and classified surface waters that is required as a condition of certifications issued by the Department under 33 U.S.C. § 1341 and permits or authorizations issued by the United States Army Corps of Engineers under 33 U.S.C. § 1341.

(b) Non-riparian wetlands means Class WL wetlands as defined in 15A NCAC 2B .0101(c)(8) whose major source of water is precipitation. Wetland types generally considered to be non-riparian include wet flats, pocosins and ephemeral wetlands.

(c) Riparian wetlands means Class WL wetlands as defined in 15A NCAC 2B .0101(c)(8) whose major source of water is ground water or surface water. Wetland types generally considered to be riparian include freshwater marshes, swamp forests, bottomland hardwood forests, headwater forests, bog forests, mountain bogs and seeps.

*Authority G.S. 143-214.11; 143-214.12.*

#### .0503 SCHEDULE OF FEES

(a) This schedule of fees is based on the cost of restoring or creating wetlands or surface waters capable of performing the same or similar functions as the wetlands or surface waters that have been impaired by permitted development projects. The fees include directly related costs of restoration planning, land acquisition, long-term monitoring, maintenance and preservation of restored areas.

(b) The amount of payment into the Fund in lieu of compensatory mitigation requirements as described in Rule .0501(b) of this Section shall be determined in accordance with Subparagraphs (1) through (3) of this Paragraph. The fee will be based on the acres and types of compensatory mitigation specified in the approved U.S. Army Corps of Engineers permit under 33 U.S.C. § 1344 or the certification issued by this Department under 33 U.S.C. § 1341. Payments shall be calculated in 0.25 acre increments for wetlands and by the linear foot for streams.

(1) Classified surface waters other than wetlands as defined in 15A NCAC 2B .0202. The payment shall be one hundred twenty-five dollars (\$125.00) per linear foot of stream.

(2) Class WL wetlands as defined in 15A NCAC 2B .0101(c)(8). The payment shall be:

(A) twelve thousand dollars (\$12,000) per acre for non-riparian wetlands.

(B) twenty-four thousand dollars (\$24,000) per acre for riparian wetlands.

(3) Class SWL wetlands as defined in 15A NCAC 2B .0101(d)(4). The payment shall be one hundred twenty thousand dollars (\$120,000) per acre.

(c) Donations or dedications of interest in real property may be accepted in lieu of compensatory mitigation requirements as described in Rule .0501(b) of this Section provided that the property has been identified as an approved site in the restoration plan developed for each river basin. Other properties may be considered by the Secretary or his

designee on a case-by-case basis. The decision on whether to accept other properties shall include a determination that restoration or preservation of the property is consistent with the goals and objectives of the restoration plan for the river basin. The amount of credit for donations of property shall consider the costs of restoration planning, long-term monitoring, and maintenance of the donated property.

(d) This fee schedule will be subject to update and revision upon determination that assessed fees vary from the actual costs of restoration activities described in Rule .0501(a) of this Section.

*Authority G.S. 143-214.11; 143-214.12.*

#### .0504 PAYMENT

(a) Payment of fees shall be made by check or electronic fund transfer to the North Carolina Wetland Restoration Fund.

(b) Donations or dedications of interest in real property shall be deeded to the State of North Carolina or to other public or private nonprofit conservation organizations as approved by the Department.

*Authority G.S. 143-214.11; 143-214.12.*

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Notice is hereby given in accordance with G.S. 150B-21.2 that the Commission for Health Services intends to amend rules cited as 15A NCAC 18A .2601 - .2604, .2606 - .2610, .2612 - .2618, .2620 - .2624, .2626 - .2628, .2630, .2632 - .2633, .2638, .2643; and to repeal 15A NCAC 18A .2605. Notice of Rule-making Proceedings was published in the Register on August 15, 1997.

**Proposed Effective Date:** August 1, 1998

**A Public Hearing** will be conducted at 10:00 a.m. on November 4, 1997 at the Ground Floor Hearing Room, Archdale Building, 512 N. Salisbury Street, Raleigh, NC 27602.

**Reason for Proposed Action:** 15A NCAC 18A .2600 "Rules Governing The Sanitation of Restaurants and Other Food Handling Establishments" are in need of additional definition and clarification. This additional definition and clarification is necessary to increase uniformity in interpretation and application of the rule on a statewide basis. Also, there is a need to include recommended changes from the 1997 Food and Drug Administration food code. Inclusion of several of the FDA recommended changes will help North Carolina stay abreast of the ever changing world of science and technology. These changes are needed to best protect the Public Health of the Citizens of North Carolina.

**Comment Procedures:** All persons interested in this matter

are invited to attend the public hearing. The Commission for Health Services will review mailed in written comments postmarked no later than December 4, 1997. Any person desiring to submit lengthy comments is required to submit a written statement for inclusion in the record of proceeding at the public hearing. Additional information concerning the hearing or the proposals may be obtained by contacting Michael Rhodes, Environmental Health Services Section, P.O. Box 29534, Raleigh, NC 27626-0534, (919) 715-0930.

**Fiscal Note:** These Rules do not affect the expenditures or revenues of state or local government funds. These Rules do not have a substantial economic impact of at least five million dollars (\$5,000,000) in a 12-month period.

## CHAPTER 18 - ENVIRONMENTAL HEALTH

### SUBCHAPTER 18A - SANITATION

#### SECTION .2600 - SANITATION OF RESTAURANTS AND OTHER FOODHANDLING ESTABLISHMENTS

##### .2601 DEFINITIONS

The following definitions shall apply in the interpretation and enforcement of this Section:

- (1) "Approved" means determined by the Department to be in compliance with this Section. ~~Food-service equipment which meets National Sanitation Foundation standards or equal shall be considered as approved. The National Sanitation Foundation Commercial Food Service Equipment Standards are hereby incorporated by reference including any subsequent amendments and editions. This material is available for inspection at the Department of Environment, Health, and Natural Resources, Division of Environmental Health, 2728 Capital Blvd., Raleigh, North Carolina. Copies may be obtained from NSF International, P.O. Box 13014, Ann Arbor, Michigan 48113-0140, at a cost of three hundred and twenty five dollars (\$325.00). Food which complies with requirements of the North Carolina Department of Agriculture or United States Department of Agriculture and the requirements of this Section shall be considered as approved.~~
- (2) "Catered elderly nutrition site" means an establishment or operation where food is served, but not prepared on premises, operated under the guidelines of the N.C. Department of Human Resources, Division of Aging.
- (3) "Commissary" means a food stand that services mobile food units and pushcarts. The commissary may or may not serve customers at the food stand's location.
- (4) "Department of ~~Environment, Health, Environment~~ and Natural Resources" or "Department" means the North Carolina Department of ~~Environment,~~

~~Health, Environment~~ and Natural Resources. The term also means the authorized representative of the Department. For purposes of any notices required pursuant to these Rules, notice shall be mailed to "Division of Environmental Health, Environmental Health Section, North Carolina Department of Environment and Natural Resources," P.O. Box 27687, Raleigh, North Carolina 27626-0534.

- (5) "Drink stand" means those establishments in which only beverages are prepared on the premises and are served in multi-use containers, such as glasses or mugs.
- ~~(6) "Eating and cooking utensils" means any kitchenware, tableware, glassware, cutlery, utensils, containers, or other equipment with which food or drink comes in contact during storage, preparation, or serving.~~
- ~~(7)(6)~~ "Employee" means any person who handles food or drink during preparation or serving, or who comes in contact with any eating or cooking utensils, or who is employed at any time in a room in which food or drink is prepared or served.
- (7) "Environmental Health Specialist" means a person authorized to represent the Department on the local or state level in making inspections pursuant to state laws and rules.
- (8) "Equipment" means refrigerators, stoves, ovens, dishwashing machines and other similar major appliances.
- ~~(8)(9)~~ "Food" means any raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption.
- ~~(9)(10)~~ "Food stand" means those food service establishments which prepare or serve foods and which do not provide seating facilities for customers to use while eating or drinking. Establishments which only serve such items as dip ice cream, popcorn, candied apples, or cotton candy are not included.
- (11) "Good Repair" means that the item in question can be kept clean, used for its intended purpose and does not present a threat to the public health.
- ~~(10)(12)~~ "Hermetically sealed container" means a container designed and intended to be secure against the entry of micro-organisms and to maintain the commercial sterility of its contents after processing.
- ~~(11)(13)~~ "Limited food service establishment" means a food service establishment as described in G.S. 130A-247(7).
- ~~(12)(14)~~ "Local Health Director" means the administrative head of a local health department or his authorized representative.
- ~~(13)(15)~~ "Mobile food unit" means a vehicle-mounted food service establishment designed to be readily moved.
- ~~(14)(16)~~ "Person" means any individual, firm, association, organization, partnership, business trust,



corporation, or company.

(15)(17) "Potentially hazardous food" means any food or ingredient, natural or synthetic, in a form capable of supporting the growth of infectious or toxigenic microorganisms, including *Clostridium botulinum*. This term includes raw or heat treated foods of animal origin, raw seed sprouts, and treated foods of plant origin. The term does not include foods which have a pH level of 4.6 or below or a water activity (Aw) value of 0.85 or less.

(16)(18) "Private club" means a private club as defined in G.S. 130A-247(2).

(17)(19) "Pushcart" means a mobile piece of equipment or vehicle which serves hot dogs or foods which have been prepared, pre-portioned, and individually pre-wrapped at a restaurant or commissary.

(18)(20) "Responsible person" means the individual present in a food service establishment who is the apparent supervisor of the food service establishment at the time of inspection. If no individual is the apparent supervisor, then any employee is the responsible person.

(19)(21) "Restaurant or food service establishment" means all establishments and operations where food is prepared or served at wholesale or retail for pay, or any other establishment or operation where food is prepared or served that is subject to the provisions of G.S. 130A-248. The term does not include establishments which only serve such items as dip ice cream, popcorn, candied apples, or cotton candy.

(20) ~~"Sanitarian" means a person authorized to represent the Department on the local or state level in making inspections pursuant to state laws and rules.~~

(21)(22) "Sanitize" means the approved bactericidal treatment by a process which meets the temperature and chemical concentration levels in 15A NCAC 18A .2619.

(22)(23) "Sewage" means the liquid and solid human body waste and liquid waste generated by water-using fixtures and appliances, including those associated with foodhandling. The term does not include industrial process wastewater or sewage that is combined with industrial process wastewater.

(23)(24) "Single service" means cups, containers, lids, closures, plates, knives, forks, spoons, stirrers, paddles, straws, napkins, wrapping materials, toothpicks, and similar articles intended for one-time, one person use and then discarded.

(25) "Substantially similar" means similar in importance, degree, amount, placement or extent.

(24)(26) "Temporary food establishment" means those food or drink establishments which operate for a period of 15 days or less, in connection with a fair, carnival, circus, public exhibition, or other similar gathering.

(27) "Threat to the Public Health" means circumstances which create a significant risk of serious physical injury or adverse health effect.

(28) "Utensils" means any kitchenware, tableware, glassware, cutlery, containers and similar items with which food or drink comes in contact during storage, preparation, or serving.

Authority G.S. 130A-248.

## .2602 PERMITS

(a) No permit to operate shall be issued to a person until an evaluation by the Department shows that the establishment complies with this Section.

(b) Upon transfer of ownership of an existing food service establishment, the Department shall complete an evaluation. If the establishment satisfies all the requirements of the rules, a permit shall be issued. If the establishment does not satisfy all the requirements of the rules, a permit shall not be issued. However, if the Department determines that the noncompliant items are construction or equipment problems that do not represent a threat to the public health, a transitional permit may be issued. The transitional permit shall expire 90 180 days after the date of issuance, unless suspended or revoked before that date, and shall not be renewed. Upon expiration of the transitional permit, the owner or operator shall have corrected the noncompliant items and obtained a permit, or the food service establishment shall not continue to operate.

(c) The Department may impose conditions on the issuance of a permit or transitional permit. Conditions may be specified for one or more of the following areas:

- (1) The number of seats or persons served.
- (2) The categories of food served.
- (3) Time schedules in completing minor construction items.
- (4) Modification or maintenance of water supplies.
- (5) Use of facilities for more than one purpose.
- (6) Continuation of contractual arrangements upon which basis the permit was issued.
- (7) Submission and approval of plans for renovation.
- (8) Any other conditions necessary for a food service operation to remain in compliance with this Section.

(d) If a permit or transitional permit has been suspended, the suspension shall be lifted after the Department has evaluated the food service operation and found that the violations causing the suspension have been corrected. If a permit or transitional permit has been revoked, a new permit shall be issued only after the Department has evaluated the food service operation and found it to comply with all applicable rules. The evaluations shall be conducted within a reasonable length of time after the request is made by the operator.

Authority G.S. 130A-248.

## **.2603 PUBLIC DISPLAY OF GRADE CARD**

(a) Upon initial permitting of a food service establishment, the Environmental Health Specialist shall designate the location for posting of the grade card. The grade card shall be located in a conspicuous place where it may be readily observed by the public upon entering the establishment. If the owner of the foodservice establishment objects to the location designated by the Environmental Health Specialist, then the owner may suggest an alternative location which meets the criteria of this Rule. If the Environmental Health Specialist and the owner cannot agree as to the location of the grade card, the owner may appeal the decision of the Environmental Health Specialist as provided under Rule .2643 of this Section.

(b) Except for inspections identified in Rule .2606(b) of this Section where a worksheet is given to the establishment, whenever an inspection of a restaurant, food stand, or drink stand is made, the ~~sanitarian~~ Environmental Health Specialist shall remove the existing grade card, issue a new grade card, and post the new grade card in a conspicuous place where it may be readily observed by the public upon entering the facility in the location where the grade card was previously posted as long as that location remains conspicuous. Under no circumstances shall the grade card be relocated based upon a change in the grade received by the foodservice establishment. The owner or operator of the foodservice establishment shall be responsible for keeping the grade card posted at the designated location designated by the ~~sanitarian~~ at all times.

Authority G.S. 130A-248.

## **.2604 INSPECTIONS AND REINSPECTIONS**

(a) Upon entry into a food service establishment, Environmental Health Specialists shall identify themselves and their purpose in visiting that establishment. Environmental Health Specialists shall inquire as to the identity of the responsible person and request that the responsible person accompany them during the inspection. If no employee is identified as the responsible person, Environmental Health Specialists shall ask an employee to accompany them on the inspection. Following the inspection, the Environmental Health Specialist shall offer to review the results of the inspection with the responsible person.

(b) A food service establishment may be allowed to correct on the spot, violations of these Rules, without the loss of points in that grading period if:

- (1) The violation is remedied during the duration of the inspection; and
- (2) The same violation was not identified by the Environmental Health Specialist during the immediately preceding quarterly inspection.

When a correction on the spot is allowed, the violation shall be recorded and correction of the item documented on the grade sheet.

(c) The grading of restaurants, food stands, or drink stands shall be done on an inspection form furnished by the

Department to local health departments. The form shall provide for but need not be limited to the following information:

- (1) the name and mailing address of the facility;
- (2) the name of person to whom permit is issued;
- (3) the permit and score given;
- (4) standards of construction and operation as listed in Rules .2607 through .2644 of this Section;
- (5) a short explanation for all points deducted;
- (6) space for a short recitation of all violations corrected on the spot as allowed by Paragraph (b) of this Rule;
- (7) the signature of the Environmental Health Specialist;
- (8) the date.

(d) In filling out the inspection form, points may be deducted only once for a single occurrence or condition existing within or outside of the food service establishment. Deductions shall be based on actual violations of these Rules observed during the inspection.

(e) In determining whether items or areas of an establishment are clean for purposes of enforcing the Rules set forth in this Section and grading an establishment, the Environmental Health Specialist shall consider, among other things: the age of the accumulated material, the relative percentage of items which are clean and not clean, the cleaning practices of the establishment and the health risk posed by the circumstances.

(a)(f) Upon request of management the permit holder or his or her representative a reinspection shall be made.

(b)(g) In the case of establishments that have been closed for failure to comply with these Rules, an inspection a reinspection to consider the issuance or reissuance of a permit shall be made at the earliest convenience of the ~~sanitarian~~, Environmental Health Specialist.

(c)(h) In the case of establishments which request an inspection for the purpose of raising the alphabetical grade, and which hold unrevoked permits, the ~~sanitarian~~ Environmental Health Specialist shall make an unannounced inspection after the lapse of a reasonable period of time, not to exceed 15 days, from the date of the request.

Authority G.S. 130A-248.

## **.2605 INSPECTION FORMS**

The grading of restaurants, food stands, or drink stands shall be done on an inspection form furnished by the Department to local health departments. The form shall provide for but need not be limited to the following information:

- (1) the name and mailing address of the facility;
- (2) name of person to whom permit is issued;
- (3) the permit and score given;
- (4) standards of construction and operation as listed in Rules .2607 through .2644 of this Section;
- (5) the signature of the ~~sanitarian~~;
- (6) date.

Authority G.S. 130A-248.

**.2606 GRADING**

(a) The sanitation grading of all restaurants, food stands, and drink stands, shall be based on a system of scoring wherein all establishments receiving a score of at least 90 percent shall be awarded Grade A; all establishments receiving a score of at least 80 percent and less than 90 percent shall be awarded Grade B; all establishments receiving a score of at least 70 percent and less than 80 percent shall be awarded a Grade ~~C~~ of Provisional. Permits shall be revoked for establishments receiving a score of less than 70 percent.

~~(b) If an establishment which has maintained an average score of 90 percent or above for prior inspections occurring during the current quarter and the previous four quarters (or for its entire period of operation if it has operated for four quarters or less) receives a score of 80 percent to 89.9 percent, the Environmental Health Specialist shall post a grade card reflecting the fact that the establishment has maintained an "A" grade average during that period and that the establishment shall be regraded within 15 days. In addition, the Environmental Health Specialist shall provide the establishment with a work sheet reflecting the items for which points were deducted during the inspection. Within 15 days of the date of that inspection, the Environmental Health Specialist shall conduct a follow-up inspection of the establishment. At the time of the follow-up inspection, the grade resulting from that follow-up inspection shall be posted.~~

~~(c) If, as a result of a quarterly inspection, an establishment receives an inspection score of 70 percent to 79.9 percent, a follow-up inspection shall be conducted not more than 60 days nor less than 30 days from the date of the initial inspection. If the establishment does not receive a score of 80 percent or above during this follow-up inspection, then the Department shall initiate proceedings for an intent to suspend the establishment's permit pursuant to G.S. 130A-23(b) and (c). Nothing herein shall effect the right of the establishment to appeal any decision under Rule .2643 of this Section, or pursuant to G.S. 150B. If an establishment chooses to appeal pursuant to Rule .2643 of this Section, suspension of the permit shall be stayed until this informal appeals process is complete.~~

~~(b)(d)~~ The grading of restaurants, food stands, and drink stands, shall be based on the standards of operation and construction as set forth in Rules .2607 through .2644 of this Section. An establishment shall receive a credit of two points on its score for each inspection for a period of three years if the manager or other person responsible for operation of that establishment attends a foodservice sanitation program approved by the Department and continues to be employed by the establishment.

~~(c)(e)~~ The posted numerical grade shall not be changed as a result of a food sampling inspection.

(f) Nothing herein shall effect the right of a permit holder to a reinspection pursuant to Rule .2604 of this Section.

(g) Nothing herein shall prohibit the Department from immediately suspending or revoking a permit pursuant to G.S. 130A-23(d).

Authority G.S. 130A-248.

**.2607 STANDARDS AND APPROVAL OF PLANS**

(a) Plans, drawn to scale, and specifications including the proposed menu, for new food service establishments shall be submitted for review and approval to the local health agency prior to initiating construction. Plans, drawn to scale, and specifications including the proposed menu shall also be submitted prior to construction of changes in the dimensions of food preparation areas, seating capacity or the addition of rooms to existing food service establishments. These plans shall include changes related to the increase in dimensions of food preparation areas, seating capacity or the addition of rooms. ~~Plans, drawn to scale and specifications for prototype "franchised" or "chain" facilities shall also be submitted for review and approval to the Environmental Health Services Section, Division of Environmental Health.~~

(b) Plans, drawn to scale, and specifications including the proposed menu, for initial "franchised" or "chain" facilities shall be submitted for review and approval to the Environmental Health Services Section, Division of Environmental Health. Thereafter, plans for "franchised" or "chain" facilities which are certified by an architect to be the same or substantially similar to the initial facility shall be submitted to the local health agency as required in Paragraph (a) of this Rule. At the time of submission to the local health agency, an architect shall set forth in writing how these plans differ from the initial plans approved by the Division. Copies of this letter shall be submitted to the Environmental Health Services Section and the local health agency.

~~(b)(c)~~ Construction shall comply with approved plans and specifications.

Authority G.S. 130A-248.

**.2608 SOURCES OF FOOD**

All food shall be obtained from sources that comply with all laws relating to food and food labeling and shall be properly identified. Food in hermetically sealed containers shall have been processed in a commercial food processing establishment operated in compliance with G.S. 106-120 through 145. Copies of G.S. 106-120 through 145 may be obtained from the Food and Drug Protection Division, North Carolina Department of Agriculture. All food shall be clean, wholesome, free from adulteration and spoilage, safe for human consumption, and shall be handled, served, or transported in such a manner as to prevent contamination, adulteration, and spoilage. Only approved containers and utensils may be used. Upon discovery, Foods foods that are spoiled or otherwise unfit for human consumption shall be immediately disposed of as garbage or returned to the source except as specified in .2641 of this Section. Foods to be

returned to the source shall be marked as such and stored in a fashion so as not to contaminate other food.

Authority G.S. 130A-248.

## **.2609 REFRIGERATION: THAWING: AND PREPARATION OF FOOD**

(a) All potentially hazardous foods requiring refrigeration shall be kept at or below 45° F (7° C), except when being prepared or served. An air temperature thermometer accurate to  $\pm 3^{\circ}$  F ( $\pm 1.5^{\circ}$  C) shall be provided in all refrigerators.

(b) ~~Thawing of potentially~~ Potentially hazardous foods shall be ~~done thawed:~~

- (1) in refrigerated units at a temperature not to exceed 45° F (7° C);
- (2) ~~or under cold potable running water no warmer than of a temperature of 70° F (21° C) or below, with sufficient water velocity agitate and float off loose food particles into the overflow;~~
- (3) ~~or as a part of the conventional cooking process;~~
- (4) ~~in a microwave oven only when the food will be immediately transferred to conventional cooking equipment as part of a continuous cooking process or when the entire, uninterrupted cooking process takes place in the microwave oven.~~

(c) Employees preparing food shall have used antibacterial soap, dips or hand sanitizers immediately prior to food preparation or shall use clean, plastic disposable gloves or sanitized utensils during food preparation. This requirement is in addition to all handwashing requirements in Section .2600 of these Rules. Food shall be prepared with the least possible manual contact, with suitable utensils and on preparation surfaces that have been cleaned and rinsed prior to use. Preparation surfaces which come in contact with potentially hazardous foods shall be sanitized as provided in Rule .2618(c) of this Section. Raw fruits and raw vegetables shall be thoroughly washed with potable water before being cooked or served.

(d) Potentially hazardous foods requiring cooking shall be cooked to heat all parts of the food to a temperature of at least 140° F (60° C) except as follows:

- (1) poultry, poultry stuffings, stuffed meats, and stuffings containing meat shall be cooked to heat all parts of the food to at least 165° F (74° C) with no interruption of the cooking process, and
- (2) pork and any food containing pork shall be cooked to heat all parts of the food to at least 150° F (66° C), and
- (3) ground beef and foods containing ground beef shall be cooked to an internal temperature of at least 155° F (68° C), and
- (4) rare roast beef shall be cooked to an internal temperature of at least 130° F (54° C), and
- (5) rare beef steak shall be cooked to a temperature of 130° F (54° C) unless otherwise ordered by the

immediate consumer.

(e) Liquid, or uncooked frozen, dry eggs and egg products shall be used only for cooking and baking purposes. This Rule does not apply to pasteurized eggs.

(f) Potentially hazardous foods that have been cooked and then refrigerated shall be reheated rapidly to 165° F (74° C) or higher throughout before being served or before being placed in a hot food storage facility except that, food in intact packages from regulated food manufacturing plants may initially be reheated to 140° F (60° C).

(g) All potentially hazardous foods, except rare roast beef, shall be stored at temperatures of 140° F (60° C) or above; or 45° F (7° C) or below except during necessary periods of preparation and serving. Rare roast beef shall be stored at a temperature of at least 130° F (54° C) or above; or 45° F (7° C) or below.

(h) Time only, rather than the temperature requirements set forth in Paragraph (g) of this Rule, may be used in connection with potentially hazardous foods that are displayed or held for service for immediate consumption if:

- (1) The food is labeled with the time of completion of the cooking process or when the food was otherwise removed from temperature control;
- (2) The food is served to the public within two hours of the time of completion of the cooking process or when the food was otherwise removed from required temperature control; and
- (3) The establishment maintains written procedures for this process.

(i) Potentially hazardous food that is displayed or held for service for immediate consumption:

- (1) which is not marked with the time of completion of the cooking process or when it was otherwise removed from required temperature control, or
- (2) for which the two hour period referenced in Paragraph (h)(2) of this Rule has expired, shall not be served to the public unless it has been maintained at the temperature required in Paragraph (g) of this Rule.

(j) Food for which the two hour time period in Paragraph (h) of this Rule has expired and which does not meet temperature requirements as specified in Paragraph (g) of this Rule, shall not be served by the public.

~~(h)(k)~~ All potentially hazardous food that is transported must be maintained at temperatures as noted in Paragraph (g) of this Rule.

~~(i)(l)~~ A metal stem-type thermometer accurate to  $\pm 2^{\circ}$  F ( $\pm 1^{\circ}$  C) shall be available to check food temperatures.

Authority G.S. 130A-248.

## **.2610 STORAGE: HANDLING: AND DISPLAY OF FOOD**

(a) All unwrapped or unenclosed food and drink on display shall be protected in such manner that the direct line from the customer's mouth to the food shall be intercepted by glass or similar shields and shall be otherwise protected from public

handling or other contamination, except that hand openings may be permitted on counter fronts. A beverage station staffed with an employee who is serving on a continual basis, is not required to provide glass or similar shields for beverages, ice and beverage garnishes. The employee shall remove contaminated beverages, ice or beverage garnishes from the beverage station. This requires standard counter protector installations for all cafeteria counters, salad bars, and similar type service to prevent contamination by customers' coughing and sneezing. Nothing in this Rule shall require food kept in glass enclosed cases to be wrapped or covered so long as effective measures are taken to prevent contamination in multi-level shelving units.

(b) Customer self-service is permitted only under the following conditions:

(1) Buffet-style Service. This style of service is not acceptable unless protective shields, equivalent to cafeteria counter protectors, are provided to intercept ~~contamination~~. ~~contamination; however, protective shields are not required for buffet style service which is provided for a club, organization or private individual as a planned event and from which the public is excluded. When food is served in this manner, the following requirements shall be met:~~

- ~~(A) Potentially hazardous foods shall be replaced at least hourly;~~
- ~~(B) Food containers shall be arranged conveniently so customers' clothing does not come in contact with food;~~
- ~~(C) Long-handled serving spoons, tongs, or other utensils shall be provided and used;~~
- ~~(D) At the conclusion of the event, food that has not been consumed, shall be discarded.~~

(2) Customer Self-Service. When customers are allowed to return to a self-service area, clean and sanitized tableware other than flatware, beverage cups and glasses, shall be made available for each return trip. Written notice shall be provided informing customers that clean tableware needs to be used for return trips.

(3) Family-style Service. In establishments featuring this style of service, patrons elect to participate in the family dining-table type of service. Ordinary serving dishes and utensils are acceptable.

(4) Private events. When service is provided for a club, organization or private individual at a planned event from which the public is excluded:

- (A) Potentially hazardous foods shall be replaced at least every two hours;
- (B) Food containers shall be arranged conveniently so customers' clothing does not come in contact with food;
- (C) Long-handled serving spoons, tongs, or other utensils shall be provided and used;
- (D) At the conclusion of the event, food that has

not been consumed, shall be discarded; and  
(E) Protective shields are not required for buffet-style service.

(c) Foods, except raw vegetables which are to be cooked, shall be kept under cover when not in the process of preparation and serving. Meat and other potentially hazardous foods shall not be stored on the floor, or in direct contact with shelves and racks of cold storage boxes, or permitted to come in contact with dirty clothes, newspapers, pasteboard, previously-used paper, or other contaminated surfaces. If open dishes and pans containing food are stacked, food shall be protected with wax paper or foil. Food transported to a restaurant shall not be accepted unless properly wrapped, covered, or otherwise protected. Food and drink shall not be served to the general public in the kitchen. In the case of "drive-in" restaurants, all food shall be covered or wrapped before delivery to patrons' vehicles, to exclude vermin or insects, dust, and other contamination.

(d) Containers for onions, slaw, mustard, and other condiments not kept in accordance with the requirements of Paragraph (a) of this Rule shall have covers and be kept covered when not in use. Sugar shall be dispensed with either pour-type dispensers or individual packages. Waiters and waitresses shall avoid unnecessary handling of food in the process of serving.

(e) ~~The establishment shall be kept free of flies, rodents, roaches, ants, and other vermin. Effective measures such as fly repellent, fans, self-closing doors, screens and routine use of approved insecticides shall be taken to keep insects, rodents, animals and other public health pests out of the establishment and to prevent their breeding or presence on the premises.~~ Animals and fowl shall not be permitted in a restaurant food service establishment, provided that seeing eye dogs accompanying blind persons and service dogs accompanying handicapped persons shall be exempted. ~~All supplementary means necessary for the elimination of flies, such as the installation of fly-repellant fans, and the routine use of approved insecticides shall be employed.~~

(f) Dustless methods of floor cleaning shall be used and all except emergency floor cleaning shall be done during those periods when the least amount of food and drink is exposed, such as after closing, or between meals.

(g) The offering of free unwrapped food samples which were prepared by, or served by, the establishment on its premises, shall be maintained at a location within sight of and under the immediate supervision of an employee or agent for the purposes of observing customer use.

(h) Foods shall not be stored under exposed sewer lines.

(i) Dry beans, grits, flour, sugar, and similar food products shall be stored in approved, covered containers, glass jars, or equal and labeled accordingly.

Authority G.S. 130A-248.

## .2612 SHELLFISH

(a) All shellfish and crustacea meat shall be obtained from

sources in compliance with the Department's rules on shellfish and crustacea. Copies of 15A NCAC 18A .0300 through .0900 may be obtained from the Department. If the source of clams, oysters, or mussels is outside the state, the shipper's name shall appear on the "Interstate Certified Shellfish Shippers List" as published monthly by the Shellfish Sanitation Branch, Food and Drug Administration. If the source of cooked crustacea meat is outside the state, it shall be certified by the regulatory authority of the state or territory of origin, attested by the presence of an official permit number on the container.

(b) All shucked shellfish and all cooked crustacea meat shall be stored in the original container. Each original container shall be clearly identified with the name and address of the packer, repacker, and the abbreviated name of the state or territory. Shucked shellfish unit containers shall be dated in accordance with 15A NCAC 18A .0600.

(c) All shellstock shall be stored in the containers in which packed at the source. Each original container shall be clearly identified with a uniform tag or label bearing the name and address of the shipper, the certificate number issued by the state or territory regulatory authority, the abbreviated name of the state, the name of the waters from which the shellfish were taken, the kind and quantity of the shellstock in the container, and the name and address of the consignee.

(d) Shellstock shall be stored under refrigeration and in a manner to prevent cross-contamination to or from the shellstock. The re-use of single-service shipping containers and the storage of shucked shellfish in other containers are not allowed.

(e) After each container of shellstock has been emptied, the management shall remove the stub of the tag and retain it for a period of at least 90 days.

(f) With the exception of opening shellfish for immediate consumption on the premises, no shellfish shucking shall be performed unless the establishment holds a valid shellfish shucking permit.

(g) Shellstock washing facilities shall consist of an approved mechanical shellfish washer, or a sink or slab with catch basin, indirectly drained into an approved sewage collection, treatment, and disposal system. The washing shall be done in a clean area, protected from contamination. A can wash facility shall not be used for the washing of shellstock or other foods.

(h) The cooking of shellfish shall be accomplished in an area meeting the requirements of this Section.

(i) Re-use of shells for the serving of food is prohibited. However, it is not a violation of these Rules to remove a shellfish from its shell and return it to that same shell for service to the public. Shells shall be stored in a manner to prevent flies, insects, rodents, and odors.

Authority G.S. 130A-248.

#### .2613 BARBECUE PLACES

The following standards shall be followed in the application of the restaurant sanitation requirements of this Rule in the

grading of establishments preparing barbecue:

##### (1) Barbecue Pits:

- (a) Barbecue pits and barbecue machines shall be enclosed in a room protected from the weather, dust, flies, and animals. The room shall be kept clean and free of garbage, rubbish, and other miscellaneous storage.
- (b) Floors shall be constructed of easily cleanable concrete or equal and graded to drain.
- (c) Floors, walls, and ceilings shall be kept clean.
- (d) Water under pressure shall be provided in barbecue pit rooms for floor cleaning.
- (e) Barbecue pit rooms shall be properly ventilated by ducts, doors, or equal in order that smoke and fumes may be removed.
- (f) Spits, holders, or racks shall be thoroughly cleaned daily.

- (2) Barbecue shall be chopped or processed in a restaurant kitchen or in a room meeting the requirements of sanitation specified for restaurant kitchens.

Authority G.S. 130A-248.

#### .2614 OUTDOOR DINING

(a) No outdoor food serving facilities, stations, or cooking facilities shall be allowed for restaurants ~~or temporary restaurants~~ except equipment such as portable cooking or serving facilities for service which is provided to a club, organization or private individual as a planned event and from which the public is excluded.

(b) This Rule shall not prohibit outdoor ~~dining~~: dining or beverage service.

Authority G.S. 130A-248.

#### .2615 MILK AND MILK PRODUCTS

(a) Only Grade "A" pasteurized milk and milk products shall be used. The term "milk products" means those products as defined in 15A NCAC 18A .1200. Copies of 15A NCAC 18A .1200 may be obtained from the Department of ~~Environment, Health, Environment~~ and Natural Resources, Division of Environmental Health, P.O. Box 27687, Raleigh, North Carolina 27611-7687. ~~Milk and milk products shall be served in the individual, original containers in which they were received from the distributor, except for buttermilk, which may be poured from a commercially filled container of not more than 1/2 gallon capacity. Approved sanitary bulk milk dispensers may also be used.~~

(b) ~~An exception may be made in the case of cream served with coffee, cereals, etc., as the distributor cannot deliver cream in the unit sizes that would be required. For such service, transferring to individual service units from the original container of not more than one-half gallon capacity, or from pumps, or other approved dispensers is permissible.~~



~~The mixing~~ Mixing of cream and milk or the pouring of either into jars, bottles, or other containers for storage therein shall be prohibited.

(c) Bulk milk dispenser containers, as received from the distributor, shall be properly sealed, labeled with the name and grade of the contents and identity of the distributor. Only the outlet seal shall be broken in the establishment.

(d) Milk and milk products shall be stored in a sanitary manner and shall be kept refrigerated, except when being served. Milk containers shall not be completely submerged in water. However, nothing in these Rules shall prohibit the placement of these items on ice while on display or being served.

(e) Reconstituted dry milk and dry milk products may be used in instant desserts and whipped products, or for cooking and baking purposes.

*Authority G.S. 130A-248.*

## **.2616 REQUIREMENTS FOR EMPLOYEES**

(a) All employees shall wear clean outer clothing and shall be clean as to their person and methods of foodhandling. No employee shall use tobacco in any form while engaged in the washing of eating and cooking utensils or in the preparation, handling, or serving of food.

(b) Employees shall wash their hands thoroughly in an ~~approved~~ a handwashing lavatory which meets the requirements of Rule .2625 of this Section before starting work, after each visit to the toilet, and as often as may be necessary to remove soil and contamination.

(c) ~~Employees engaged in the preparation, handling, or serving of food shall wear hairnets, caps, or other effective hair restraints~~ Effective hair restraints such as hairnets, caps, or wrap around visors shall be worn by employees engaged in the preparation or handling of food to prevent the contamination of food or food contact surfaces. Wigs and hairspray do not constitute compliance with this Rule. This Rule does not apply to employees such as counter staff who only serve beverages and wrapped or packaged foods, hosts, hostesses and wait staff if they present a minimal risk of contaminating exposed food.

(d) ~~Cooks and other kitchen employees shall wear clean outer clothing.~~

~~(e)(d)~~ No person who has a communicable or infectious disease that can be transmitted by foods, or who is a carrier of organisms that cause such a disease, or who has a boil, infected wound, or a disease with sudden onset and severe symptoms including cough or nasal discharge, shall work in a food service establishment in any capacity in which there is a likelihood of such person contaminating food or food-contact surfaces, with disease-causing organisms or transmitting the illness to other persons.

(e) Employees are allowed to have beverages in areas where food is prepared so long as those beverages are covered and consumed in a sanitary manner. Beverage containers shall not be stored on or above a food contact

surface and must be handled in a way so as to avoid cross-contamination.

*Authority G.S. 130A-248.*

## **.2617 UTENSILS AND EQUIPMENT**

(a) All eating, drinking, and cooking utensils, tables, sinks, cabinets, hoods, shelves, ~~and other equipment and fixtures used in connection with the operation of a restaurant shall be so constructed as to be easily cleaned and preparation of food shall be kept in good repair.~~ clean.

(b) All surfaces with which food or drink comes in contact shall consist of smooth, not readily corrodible, non-toxic ~~material, such as stainless steel, phenolic resin, marble slabs, or tight wood materials~~ in which there are no open cracks or joints that will collect food particles and slime, and be ~~readily accessible for cleaning.~~ kept clean.

(c) Shelves, tables, and counters shall not be covered with paper, cardboard, oil cloth, or other absorbent material, and shall be free of crevices. Dining table linen or similar dining table coverings, if used, shall be kept clean. ~~clean and in good repair.~~

(d) ~~Food service equipment~~ Equipment, sinks and microwave ovens shall meet National Sanitation Foundation standards, which are adopted by reference in accordance with G.S. 150B-14(c). If equipment is not National Sanitation Foundation listed, the owner or operator shall submit documentation to the Department that demonstrates that the equipment is at least equivalent to National Sanitation Foundation standards. The Department shall determine if the equipment is at least equivalent to National Sanitation Foundation standards. In doing so, if the components of the equipment are the same as those meeting NSF standards, then the Department shall deem the equipment equivalent. Hot water heaters are not required to meet NSF standards.

(e) Beverage dispensers installed or replaced after the effective date of this Rule shall be designed to avoid activation by the lip of a cup or glass when these dispensers are used to refill customer cups or glasses.

*Authority G.S. 130A-248.*

## **.2618 CLEANING OF EQUIPMENT AND UTENSILS**

(a) All equipment and fixtures shall be kept clean. All cloths used by chefs and other employees in the kitchen shall be clean. ~~Single-service containers shall be used only once.~~

(b) Single-Use Articles such as formed buckets, bread wrappers, aluminum pie plates and No. 10 cans shall be used only once except that containers made of plastic, glass or other food grade material having smooth sides and of a construction so as to be easily cleaned may be reused.

~~(b)(c)~~ All multi-use eating and drinking utensils shall be thoroughly washed, rinsed, and subjected to an ~~approved~~ a bactericidal treatment specified in Rule .2619 of this Section after each usage. The supply of eating and drinking utensils shall be of sufficient quantity to allow washing, rinsing,

sanitizing and air-drying before re-use. All multi-use utensils except pizza pans and similar type pans (not used for table service) used in the storage, preparation, cooking, or serving of food or drink shall be cleaned and rinsed immediately after the days' operations, after each use, or upon completion of each meal as indicated. Pizza pans and similar type pans (not used for table service) which are continually subjected to high temperatures do not require cleaning after each use or day's use but shall be kept clean and maintained in good repair.

(c)(d) In addition to washing and rinsing multi-use utensils as indicated in Paragraph (b) of this Rule, preparation surfaces which come in contact with potentially hazardous foods and are not subjected to heat during routine cooking operations shall be sanitized. Examples of food contact surfaces which must be sanitized are utensils used in preparing cold salads and cold beverages, cutting boards, table tops, knives, saws, and slicers. For utensils and equipment which are either too large or impractical to sanitize in a dishwashing machine or dishwashing sink, and for those establishments which do not have dishwashing equipment, a spray-on or wipe-on sanitizer may be used. When spray-on or wipe-on sanitizers are used, the chemical strengths shall be those required for sanitizing multi-use eating and drinking utensils.

(d)(e) Hand dishwashing facilities shall consist of an approved three-compartment sink of sufficient size and depth to submerge, wash, rinse and sanitize utensils and shall have splash back protection and drainboards that are an integral part of and continuous with the sink. These drainboards shall be of a sufficient size to accommodate the drainage of liquids of the washed utensils after being sanitized. Air drying of utensils may be accomplished with the use of a drainboard, overhead or wall mounted shelves, or with the use of stationary or portable racks, racks or by cross-stacking.

(e)(f) Where the Department determines that the volume of dishes, glasses and utensils to be washed cannot be processed in a single warewashing facility, separate dish, glass or utensil washing facilities shall be required. Separate vegetable washing facilities shall be provided in establishments which wash raw vegetables except where plan review shows that volume and preparation frequency do not require separate vegetable washing facilities or where vegetables are purchased prewashed and packaged. Establishments which scale or eviscerate fish or wash raw poultry shall provide separate sinks with preparation space for these processes except where plan review shows that volume and preparation frequency do not require separate washing facilities.

(f)(g) When dishwashing machines are used, the machines shall be approved and shall be fitted with drainboards of ample capacity on each side, and include a countersunk sink or other approved means for pre-cleaning, pre-flushing, or pre-soaking of the utensils in the dirty dish lane. Thermometers indicating the wash and rinse water temperatures shall be provided and kept in good repair.

(g)(h) When dishwashing machines are used, the machines shall be approved on the basis of size, capacity, and type for

the number of utensils to be washed. Under some conditions, as when volume is limited and time permits, glasses may be washed with power-driven brushes and passed through door-type machines, which are also used for dishwashing, for final rinse and bactericidal treatment. For this method, a motor-driven glass-washer and a single-vat sink may suffice.

(h)(i) When only single-service eating and drinking utensils are used, at least an approved two-compartment sink shall be provided. This sink shall be of sufficient size to submerge, wash, rinse and sanitize utensils and shall have splash back protection and drainboards that are an integral part of and continuous with the sink. These drainboards shall be of sufficient size to accommodate the drainage of liquids of the washed utensils after being sanitized. Air drying of utensils may be accomplished with the use of a drainboard, overhead or wall mounted shelves, or with the use of stationary or portable racks.

(i)(j) Facilities for the heating of water shall be provided. Capacity of hot water heating facilities shall be based on number and size of sinks, capacity of dishwashing machines, and other food service and cleaning needs. Hot water storage tanks shall provide a minimum of 130° F (54° C) hot water when water is not used for sanitizing; when hot water is used for sanitizing, a minimum storage temperature of 140° F (60° C) hot water is required.

(j)(k) No article, polish, or other substance containing any cyanide preparation or other poisonous material shall be used for the cleaning or polishing of eating or cooking utensils.

(l) In determining the sufficiency of the size of drainboards, machine dishwashers and sinks in an establishment, the Environmental Health Specialist shall consider the number and size of multi-use utensils regularly cleaned. For drainboards only, the Specialist shall also consider the available shelf space, racks and other areas which may be used for air drying.

Authority G.S. 130A-248.

## **.2620 STORAGE AND HANDLING OF UTENSILS AND EQUIPMENT**

(a) After bactericidal treatment, utensils shall be air-dried and stored above the floor in a clean place. Wherever practicable, containers and utensils shall be covered or inverted or stored in tight, clean cabinets; and glasses and cups shall be stored inverted in a sanitary manner. It shall not be considered practicable to invert plates and bowls which slide when inverted or cover plates and bowls positioned for immediate use during business hours. Utensils and equipment shall be handled in such a manner as to prevent contamination, and employees shall avoid handling clean surfaces that will come in contact with customers' mouths.

(b) Drain racks, trays, and shelves shall be made of not readily corrodible material, and shall be kept clean. These items are not required to be made of plastic.

(c) Spoons, spatulas, dippers, etc., used for dispensing frozen desserts shall be kept, when not in use, in dipper wells with running water or stored in the food product with the



handle extending out of the food or dry stored on a clean surface. When these utensils are used to dispense food products other than frozen desserts, they shall be kept, when not in use, in the product or on a clean surface.

(d) Single-service utensils shall be purchased only in sanitary containers, shall be stored therein in a clean, dry place until used, and shall be handled in a sanitary manner. Single-service cup dispensers or similar devices shall be used when single-service cups are used. ~~Laundered table linen and cleaning cloths shall be stored in a clean place until used. Nothing in these Rules shall prohibit the use of plastic bags in which single-service cups or similar devices are received as the dispenser for those items.~~

Authority G.S. 130A-248.

## .2621 DRINKING WATER FOUNTAINS

~~(a) Facilities for the dispensing of drinking water shall be of an approved sanitary design. If water-cooling equipment is installed, it shall be of a type in which ice does not come in contact with the water.~~

~~(b)~~ If drinking fountains are provided, they shall meet NSF standards, be of approved angle-jet type and ~~shall~~ be kept clean. This Rule shall not be interpreted as prohibiting the pitcher service of ice ~~water~~ or the service of bottled water.

Authority G.S. 130A-248.

## .2622 STORAGE: HANDLING: AND USE OF ICE

(a) Ice which is to be used in fountain drinks, ice water, tea, and coffee, or in connection with the chilling or serving of salads, vegetables, or cocktails shall be manufactured from an approved water supply and shall be stored and handled in a sanitary manner.

(b) Storage boxes shall be covered, located away from sources of contamination, maintained in good repair, and kept clean. Storage bins or boxes shall be provided with rims and covers designed to exclude spillage and drip.

(c) Ice grinders, pans, and buckets used in preparing chipped or crushed ice shall be protected from contamination, thoroughly cleaned between usages, and kept in good repair; buckets and other containers used in the transportation of ice shall be stored above the floor in a clean place.

(d) Ice shall be dispensed or transferred with a scoop, spoon, or other approved sanitary method. When not in use, an ice scoop or spoon may be stored in the ice with the handle protruding or on a clean surface. Ice scoops shall not be stored in water. Fountain ice compartments, bowls, buckets, or other containers shall be in good repair; frequently washed and kept free of scum, rust, etc.; and shall be protected from drip, dust, splash, and other means of contamination. Ice shall not be received, used, or accepted when there is evidence that it is not being handled and transported in a sanitary manner.

(e) Ice machines shall be kept clean.

Authority G.S. 130A-248.

## .2623 WATER SUPPLY

(a) The water supply used shall be in accordance with 15A NCAC 18A .1700.

(b) Prior to the issuance of a permit, non-community water supplies shall be listed with the Public Water Supply Section, Division of Environmental Health.

(c) In food service establishments with non-community water supplies, water water samples for bacteriological analysis shall be collected by the Department and submitted to the laboratory section of the Department or another laboratory certified by the Department for analysis, and at least annually thereafter for bacteriological analysis.

(d) Cross-connections with sewage lines or unapproved water supplies are prohibited. Hot and cold running water under pressure shall be provided to food preparation, utensil and handwashing areas, and any other areas in which water is required for cleaning. Running water under pressure shall be provided in sufficient quantity to carry out all food preparation, utensil washing, hand washing, cleaning, and other water-using operations.

Authority G.S. 130A-248.

## .2624 TOILET FACILITIES

(a) Unless specified elsewhere in these Rules, Every every restaurant shall be provided with toilet facilities conveniently located and readily accessible to employees and customers during at all business hours. Unless specified elsewhere in these Rules, all restaurants shall have toilets which are convenient and accessible to employees and customers. Toilets for patrons shall be so located that the patrons do not pass through the kitchen to enter the toilet rooms. Intervening rooms or vestibules, if provided, shall be constructed and maintained in accordance with this Rule. Toilets shall be in the proximity of the restaurant and under control of the management. Floors and walls shall be constructed of non-absorbent, washable materials. Floors, walls, and ceilings shall be kept clean and in good repair. Toilet rooms shall be provided with self-closing doors, and kept free of flies and storage. Windows shall be screened if used for ventilation. Fixtures shall be kept clean and in good repair.

(b) Signs shall be posted to advise the public of the locations and identities of the toilet rooms. Durable, legible signs which read that employees must wash their hands before returning to work shall be posted ~~or stenciled~~ conspicuously in each employees' toilet room.

(c) Screens and doors are not required for toilet rooms at stadiums or facilities in which toilet rooms open into the interior of a building and the exterior doors of the building are self-closing.

(d) All toilet wastes and other sewage shall be disposed of in a public sewer system or, in the absence of a public sewer system, by an approved sanitary sewage system.

Authority G.S. 130A-248.

## .2626 DISPOSAL OF WASTES

(a) All ~~sewage and other liquid wastes~~ waste water shall be disposed of in a public sewer system or, in the absence of a public sewer system, by an approved, properly operating sanitary sewage system.

(b) Garbage shall be collected and stored in standard, water-tight garbage cans or other approved containers or methods and provided with tightfitting lids. Lids shall be kept in place, except for cans inside the kitchen which are being used frequently during normal operations. The contents of these cans shall be removed frequently and the cans shall be washed. These Rules do not require lids to be kept on garbage cans or containers which are in use at work stations where food is being prepared.

(c) Garbage and ~~trash~~ trash, including tin cans, resulting from the restaurant operations shall be removed from the building as frequently as may be necessary and disposed of in an approved manner.

(d) ~~Indoor or outdoor facilities~~ Facilities shall be provided for the washing and storage of all garbage cans and mops. Cleaning facilities shall include combination faucet, hot and cold water, threaded nozzle, and curbed impervious pad sloped to drain or other approved facilities or methods.

(e) Where containerized systems are used for garbage storage, facilities shall be provided for the cleaning of such systems. In the alternative, a contract for off-site cleaning shall constitute compliance with this provision and evidence of such contract shall be made available within 21 days to the Environmental Health Specialist upon request.

Authority G.S. 130A-248.

## .2627 FLOORS

(a) The floors of all rooms in which food is stored, prepared, handled, or served, or in which utensils are washed, shall be of such construction as to be easily cleaned, ~~shall be free of obstacles to cleaning,~~ and shall be kept clean and in good repair. Food waste on the floor as a result of that day's preparation process is not a violation of these Rules so long as the food waste is removed prior to closing and within each 24 hour period.

(b) ~~The floor area shall be sufficient to accommodate all operations.~~ Floors in areas where food is to be prepared or stored may be of sealed concrete, terrazzo, quarry or vinyl tile, wood covered with composition flooring or equal, except that:

- (1) carpet may be used in wait stations and self-service bars.
- (2) there will be no special flooring requirements for portable cooking units which may be used in a dining room for occasional service at individual tables.

(c) The joints between walls and floors shall be rounded or ~~provided with tight molding or be otherwise constructed to provide a tight seal between the floor and wall.~~

(d) In all rooms in which water is discharged to the floor, or in which floors are subjected to flood-type cleaning, floors shall slope to drain and be provided with floor drains.

(e) Properly maintained carpeting is acceptable in dining areas.

Authority G.S. 130A-248.

## .2628 WALLS AND CEILINGS

(a) Walls and ceilings of all rooms in which food is stored, handled, prepared, or served or in which utensils are washed or stored shall be kept clean and in good repair. Water stains on walls or ceilings do not constitute a violation of this Rule unless mold or mildew are present.

(b) The walls of kitchens and other rooms used for the preparation of food and the washing of utensils shall be smooth, smooth and washable and ceilings shall be of the same construction, provided that acoustical ceiling material may be accepted where ventilation precludes the possibility of grease absorption and be kept clean. Acceptable wall materials include but are not limited to glazed tile; fiberglass reinforced panels, stainless steel, wood or metal wall board painted with epoxy paint; and brick, cinder blocks, slag blocks, or concrete blocks, if glazed, tiled, plastered or filled so as to provide a smooth, easily-cleanable surface, regardless of color, smooth surface. Ceilings in kitchens and other rooms used for the preparation of food or the washing of utensils shall be washable. Acceptable materials include, but are not limited to perforated or non-perforated vinyl faced acoustical tile, FRP panels, and painted wall board.

(c) The walls and ceilings of the dining rooms and other food serving rooms shall be of sound construction.

(d) The walls and ceilings of dry storage rooms shall be of sound construction; however, a washable finish is not required.

(e) The walls and ceilings of the wait stations and bars that serve only beverages shall be of sound construction, provided that the interior walls of wait stations and bars used for preparation of beverages shall be finished to be smooth and washable.

Authority G.S. 130A-248.

## .2630 LIGHTING

(a) All areas in which food is ~~handled, or~~ prepared, or in which utensils are washed, shall be provided with at least 50 foot-candles of light on food preparation work levels and at utensil washing work levels. At least 10 foot-candles of light at 30 inches above the floor shall be provided in all other areas, including storage rooms and walk-in units. This shall not include dining and lounge areas except during cleaning operations. Fixtures shall be kept clean and in good repair.

(b) In determining whether the lighting at a particular location meets the requirements of this Rule, the Environmental Health Specialist shall take the measurement with the light meter at the level where work is performed or at 30 inches above the floor if not at a work station identified

in Paragraph (a) of this Rule. The Environmental Health Specialist shall place the meter on the surface where the measurement is to be taken and shall not obstruct the path of the light to the surface in question. Instruments used to measure lighting shall be maintained and operated by the Environmental Health Specialist in accordance with the manufacturer's instructions so as to insure their accuracy.

~~(b)(c)~~ Light bulbs in food preparation, storage, and display areas shall be shatter-proof or shielded so as to preclude the possibility of broken bulbs or lamps falling into food. Shatter-proof or shielded bulbs need not be used in food storage areas where the integrity of the unopened packages will not be affected by broken glass falling onto them and the packages, prior to being opened, are capable of being cleaned.

~~(c)(d)~~ Heat lamps shall be protected against breakage by a shield surrounding and extending beyond the bulb, leaving only the face of the bulb exposed.

Authority G.S. 130A-248.

## .2632 STORAGE SPACES

(a) Storage spaces shall be kept clean. ~~clean and free from unnecessary articles and offensive or musty odors.~~ The contents shall be neatly arranged to facilitate cleaning. ~~At storage shall be at least 12 in. (30.48 cm.) above the floor when placed on stationary storage units or 6 in. (15.24 cm.) above the floor when placed on portable storage units or otherwise arranged so as to permit thorough cleaning.~~

(b) ~~Dry beans, grits, flour, sugar, and similar food products shall be stored in approved, tightly covered containers, glass jars, or equal and labeled accordingly.~~ All items stored in rooms where food or single-service items are stored shall be at least 12 in. (30.48 cm.) above the floor when placed on stationary storage units or 6 in. (15.24 cm.) above the floor when placed on portable storage units or otherwise arranged so as to permit thorough cleaning. For purposes of this Rule the term "portable" does not require wheels.

(c) Shelves in storage rooms where food or single-service items are stored shall be constructed approximately 1 in. (2.54 cm.) from the wall, unless tightly stripped or caulked. ~~to eliminate cracks or roaches.~~

(d) Bulky items shall be stored on slatted shelves or movable dollies.

~~(e) Foods shall not be stored under exposed sewer lines. Nothing in this Rule shall prohibit the use of non-absorbent wooden shelves which are in good repair in dry storage areas.~~

Authority G.S. 130A-248.

## .2633 PREMISES: MISCELLANEOUS

(a) The premises under control of the management shall be kept neat and clean at all times. ~~free of items which provide fly or mosquito breeding places or rodent harborages.~~ Waste material, un-used articles, tin cans, rubbish, and other litter

~~shall not be permitted to accumulate on the premises. There shall be no fly or mosquito breeding places, rodent harborages, or undrained areas on the premises.~~

(b) None of the operations shall be conducted in any room used for domestic purposes. A domestic kitchen shall not be used in connection with the operation of a restaurant.

(c) Soiled linens, coats, and aprons shall be kept in containers provided for this purpose. Laundered table linen and cleaning cloths shall be stored in a clean place until used. ~~When toxic materials are used in a restaurant, a special area for storage of these materials shall be provided and plainly marked.~~

(d) Toxic materials used in a restaurant shall be labeled. A special area for storage of these materials shall be provided and plainly marked. This requirement shall not apply to cleaners and sanitizers used in the operation of the restaurant that are stored for availability and convenience if the materials are stored to prevent the contamination of food, equipment, utensils, linens and single-service items.

Authority G.S. 130A-248.

## .2638 GENERAL REQUIREMENTS FOR PUSHCARTS AND MOBILE FOOD UNITS

(a) A permit shall be issued by the local health department which provides sanitation surveillance for the restaurant or commissary from which the pushcart or mobile food unit is to operate, if the local health department determines that the pushcart or mobile food unit complies with these Rules.

(b) The permit shall be posted on the pushcart or mobile food unit. Grade cards shall not be posted.

(c) The local health department which issues the permit shall be provided by individuals receiving a permit a list of counties and locations where each pushcart or mobile food unit will operate.

(d) Individuals receiving a permit to operate a pushcart or mobile food unit shall provide the local health department in each county in which food service operations are proposed a list of locations where they will operate. Such lists must be kept current.

(e) Prior to initiating food service operations in a particular jurisdiction, the operator of the pushcart or mobile food unit shall submit to that particular jurisdiction such carts or units for inspection or reinspection to determine compliance with this Section.

(f) Pushcarts or mobile food units shall operate in conjunction with a permitted restaurant or commissary and shall report at least daily to the restaurant or commissary for supplies, cleaning, and servicing. Facilities, in compliance with this Section, shall be provided at the restaurant or commissary for storage of all supplies. The pushcart shall also be stored in an area that protects it from dirt, debris, vermin and other contamination. Water faucets used to supply water for pushcarts and mobile food units shall be protected to prevent contact with chemicals, splash and other sources of contamination. Solid waste storage and liquid

waste disposal facilities must also be provided on the restaurant or commissary premises.

(g) All foods shall be obtained from approved sources and shall be handled in a manner so as to be clean, wholesome, and free from adulteration.

(h) All potentially hazardous foods shall be maintained at 45° F (7° C) or below or 140° F (60° C) or above, or as required in Rule .2609 of this Section. A metal stem-type thermometer accurate to ± 2° F. (± 1° C.) shall be available to check food temperatures.

(i) Only single-service eating and drinking utensils shall be used in serving customers. Single-service items must be properly stored and handled.

(j) All garbage and other solid waste shall be stored and disposed of in an approved manner.

(k) Employees shall be clean as to their person and foodhandling practices. Clean outer clothing and hair restraints are required.

(l) No person who has a communicable or infectious disease that can be transmitted by foods, or who is a carrier of organisms that cause such a disease, or who has a boil, infected wound, or an acute respiratory infection with cough and nasal discharge, shall work with a pushcart or mobile food unit in any capacity in which there is a likelihood of such person contaminating food or food-contact surfaces, with disease-causing organisms or transmitting the illness to other persons.

(m) All equipment and utensils shall ~~be easily cleanable and kept clean and in good repair.~~ comply with the rules of this Section.

(n) The pushcart or mobile food unit shall be kept in a clean and sanitary condition and be free of flies, roaches, rodents, and other vermin.

#### .2643 APPEALS PROCEDURE

~~Appeals concerning the interpretation and enforcement of the rules in this Section shall be made in accordance with G.S. 150B.~~

(a) If a permit holder disagrees with any decision of an Environmental Health Specialist in the interpretation, application or enforcement of the rules of this Section, the permit holder may request an appeal conference. The request shall be in writing and shall be mailed or hand-delivered to the local health department within 7 days of the events giving rise to the appeal. The request shall briefly state the issues in dispute. As soon as possible but at least within 30 days of receipt of the request, the Environmental Health Supervisor or his or her representative in the county or area where the food service establishment is located shall contact the permit holder, provide that permit holder an opportunity to be heard on the issues in dispute and issue a written decision addressing the issues raised in the appeal. That decision shall be binding for the purposes of future inspections of the establishment in question unless reversed pursuant to Paragraph (b) of this Rule.

(b) Following receipt of the written decision of the Environmental Health Supervisor or his or her representative issued pursuant to Paragraph (a) of this Rule, the permit holder who initiated the appeal may appeal that decision to an Appeals Officer designated by the Department to be responsible for final decisions on appeals from throughout the state. Notice of such appeal shall be in writing, shall include a copy of the Environmental Health Supervisor's or his or her representative's decision and shall be mailed or hand-delivered to the Local Health Department and to the Department within seven days of receipt of the written decision issued pursuant to Paragraph (a) of this Rule. Within 35 days of receipt of this appeal, the designated Appeals Officer shall hold a hearing in Wake County. Notice of the time and place of this hearing shall be provided to the permit holder and the Environmental Health Supervisor for the county or area where the issue arose. Within 10 days following the date of the hearing, the Appeals Officer shall issue a written decision addressing the issues raised in the appeal and that decision shall be binding for purposes of future inspections of the establishment in question.

(c) If the decision on appeal at the local or state level results in a change in the score resulting from an inspection of an establishment, the Environmental Health Specialist shall post a new grade card reflecting that new score.

(d) The decision of the designated Appeals Officer may be appealed in accordance with G.S. 150B.

(e) Nothing in this Rule shall impact the right of a permit holder to a reinspection pursuant to Rule .2604 of this Section.

Authority G.S. 130A-248.

*The Codifier of Rules has entered the following temporary rule(s) in the North Carolina Administrative Code. Pursuant to G.S. 150B-21.1(e), publication of a temporary rule in the North Carolina Register serves as a notice of rule-making proceedings unless this notice has been previously published by the agency.*

## TITLE 10 - DEPARTMENT OF HUMAN RESOURCES

**Rule-making Agency:** North Carolina Child Care Commission

**Rule Citation:** 10 NCAC 3U .0602 .0604, .0605, .0705

**Effective Date:** October 1, 1997

**Findings Reviewed and Approved by:** Beecher R. Gray

**Authority for the rule-making:** G.S. 143B-168.3

**Reason for Proposed Action:** *The North Carolina Child Care Commission proposes this action to ensure that outdoor area equipment and furnishings that are provided in child care facilities are child size, sturdy, free of hazards that pose a threat of serious injury to children while engaged in normal play activities, and in good repair.*

*The North Carolina Child Care Commission proposes rules that address the factors most likely to be hazardous or pose a threat of serious injury to children. This includes preventing entrapment and protrusion hazards and providing for fall zones, surfacing, and protective barriers.*

**Note:** *10 NCAC 3U .0604, General Safety Requirements, includes text in italics to indicate a previous amendment approved by the Rules Review Commission that is pending review by the Joint Legislative Administrative Procedure Oversight Committee.*

**Comment Procedures:** *Questions or written comments regarding this matter may be directed to Nancy Guy, APA Coordinator, Division of Child Development, 319 Chapanoke Road, P.O. Box 29553, Raleigh, NC 27526-0553; (919) 662-4543.*

## CHAPTER 3 - FACILITY SERVICES

### SUBCHAPTER 3U - CHILD DAY CARE STANDARDS

#### SECTION .0600 - SAFETY REQUIREMENTS FOR DAY CARE CENTERS

##### .0602 CONDITION OF INDOOR EQUIPMENT AND FURNISHINGS

(a) All equipment and furnishings shall be in good repair and shall be maintained in useable condition. All commercially manufactured equipment and furnishings shall be assembled and installed according to procedures specified by the manufacturer. ~~All equipment and furnishings shall be in good repair and shall be maintained in useable condition.~~

(b) Equipment and furnishings shall be sturdy, stable, and free of hazards that may injure children including sharp edges, lead based paint, loose nails, and splinters, protrusions, pinch and crush points, uncapped screws and other hazards that may injure children. ~~splinters.~~

(c) All broken equipment or furnishings shall be removed from the premises immediately or ~~must be stored so that they are not accessible~~ made inaccessible to the children.

~~(d) All equipment and surfacing ordered, constructed or installed prior to January 1, 1996 shall conform to US Consumer Products Safety Commission (USCPSC) guidelines for playground safety, including subsequent amendments, by January 1, 1999. All equipment and surfacing ordered, constructed or installed after January 1, 1996 shall conform to USCPSC guidelines, including subsequent amendments. A copy of the USCPSC Handbook for Public Playground Safety can be obtained at no charge by writing USCPSC, Office of Information and Public Affairs, Washington, DC, 20207.~~

~~(e) Gravel shall not be used as a surfacing material if the area will be used by children under three years of age.~~

**History Note:** Authority G.S. 110-91(6); 143B-168.3;

Eff. January 1, 1986;

Amended Eff. January 1, 1996; January 1, 1991;

Temporary Amendment Eff. October 1, 1997.

(Note: *Italicized text in the following rule indicates a previous amendment to this rule approved by the Rules Review Commission and pending review by the Joint Legislative Administrative Procedure Oversight Committee.*)

##### .0604 GENERAL SAFETY REQUIREMENTS

(a) Potentially hazardous items, such as firearms and ammunition, hand and power tools, nails, chemicals, lawn mowers, gasoline or kerosene, archery equipment, propane stoves, whether or not intended for use by children, shall be stored in locked areas or with other appropriate safeguards, or shall be removed from the premises.

(b) Electrical outlets not in use which are located in space used by the children shall be covered with safety plugs unless located behind furniture or equipment that cannot be moved by a child.

(c) Electric fans shall be mounted out of the reach of children or shall be fitted with an appropriate mesh guard to prevent access by children.

(d) All small electrical appliances shall be used only in accordance with the manufacturer's instructions.

(e) Electrical cords shall not be accessible to infants and toddlers. Extension cords, except as approved by the local fire inspector, shall not be used. Frayed or cracked electrical cords shall be replaced.

(f) All materials used for starting fires, such as matches

and lighters, shall be kept in locked storage or shall be stored out of the reach of children.

(g) Smoking shall not be permitted in space used by children when children are present. All smoking materials shall be kept in locked storage or out of the reach of children.

(h) Fuel burning heaters, fireplaces and floor furnaces shall be provided with a protective screen attached securely to substantial supports to prevent access by children and to prevent objects from being thrown into them.

(i) Plants that are toxic shall not be in indoor or outdoor space that is used by or is accessible to children.

(j) The outdoor play area shall be protected by a fence or other protection. The height shall be a minimum of four feet and the top of the fence shall be free of protrusions by January 1, 1999. The requirement disallowing protrusions shall not apply to fences six feet high or above. The fencing shall exclude fixed bodies of water such as ditches, quarries, canals, excavations, and fish ponds. Gates to the fenced outdoor play area shall remain securely closed while children occupy the area. When the facility uses areas outside the fenced outdoor play area for children's activities or takes children off the premises for play or outings, the parent of each child shall give written permission for the child to be included in such activities. The permission may be:

- (1) a one-time, blanket permission for all activities;
- (2) a one-time, blanket permission for a specific activity at any time; or
- (3) a one-time permission for a specific activity at a designated time.

The facility shall maintain the signed permission in the child's record. When children are taken off the premises, staff accompanying the children shall have a list of the names of all children participating in the outing.

(k) Air conditioning units shall be located so that they are not accessible to children or shall be fitted with a mesh guard to prevent objects from being thrown into them.

(l) Gas tanks shall be located so they are not accessible to the children or shall be in a protective enclosure or surrounded by a protective guard.

(m) Cribs and playpens shall be placed so that the children occupying them shall not have access to cords or ropes, such as venetian blind cords.

(n) Children shall not be allowed to play on outdoor equipment that is too hot to touch.

(o) The indoor and outdoor premises shall be checked daily for debris, vandalism and broken equipment. Debris shall be removed and disposed of appropriately.

(p) The playground surface area shall be checked at least weekly to assure that surface material is maintained to assure continued resiliency.

(q) Following completion of safety training by the administrator or other staff person as required by Rule .0705(f) of this Subchapter, a monthly playground inspection shall be conducted and a record of each inspection shall be completed. This staff person shall use a playground inspection checklist provided by the Division. The checklist shall be signed by the person who conducts the inspection and shall be maintained in the facility's files for review by a representatives representative of the Division.

(r) Plastic bags, materials than that can be easily torn apart such as Styrofoam and foam rubber, and toys and toy parts small enough to be swallowed shall not be accessible to children under three years of age. Latex and rubber balloons shall not be accessible to children under five years of age.

*History Note: Authority G.S. 110-85(1); 110-91(3), (6); 143B-168.3;*

*Eff. January 1, 1991;*

*Amended Eff. January 1, 1996; November 1, 1991;*

*Temporary Amendment Eff. October 1, 1997;*

#### **.0605 CONDITION OF OUTDOOR PLAY EQUIPMENT**

(a) All equipment shall be in good repair and shall be maintained in useable condition. All commercially manufactured equipment shall be assembled and installed according to procedures specified by the manufacturer.

(b) Equipment shall be sturdy, stable, and free of hazards that are accessible to children during normal supervised play including sharp edges, lead based paint, loose nails, splinters, protrusions, pinch and crush points.

(c) All broken equipment shall be removed from the premises immediately or made inaccessible to the children.

(d) Any openings in equipment, steps, decks and handrails shall be smaller than 3 1/2" or greater than 9" to prevent entrapment.

(e) All upright angles shall be greater than 55° to prevent entrapment and entanglement.

(f) All stationary outdoor equipment shall be firmly anchored over a resilient surface. Footings which anchor equipment shall not be exposed. Loose surfacing material shall not be installed over concrete. The depth of the surfacing that is required shall be based on the critical height of the equipment as indicated in the chart below. The critical height is defined as the maximum height a child may climb, sit or stand. Acceptable materials to be used for surfacing include the following: wood mulch, double shredded bark mulch, uniform wood chips, fine sand, coarse sand, fine gravel and medium gravel.

#### Critical Heights of Playground Equipment for Various Types and Depths of Resilient Surfaces



	<b>Wood Mulch</b>	<b>Double Shredded Bark Mulch</b>	<b>Uniform Wood Chips</b>	<b>Fine Sand</b>	<b>Coarse Sand</b>	<b>Fine Gravel</b>	<b>Medium Gravel</b>
<b>Equipment Height</b>	<b>Uncompressed Depths of Material</b>						
<u>five feet or less</u>	<u>6 inches</u>	<u>6 inches</u>	<u>6 inches</u>	<u>6 inches</u>	<u>6 inches</u>	<u>6 inches</u>	<u>6 inches</u>
<u>six feet</u>	<u>6 inches</u>	<u>6 inches</u>	<u>6 inches</u>	<u>12 inches</u>	<u>12 inches</u>	<u>6 inches</u>	<u>12 inches</u>
<u>seven feet</u>	<u>6 inches</u>	<u>9 inches</u>	<u>9 inches</u>	<u>12 inches</u>	<u>N/A*</u>	<u>9 inches</u>	<u>N/A*</u>
<u>eight feet</u>	<u>9 inches</u>	<u>9 inches</u>	<u>12 inches</u>	<u>12 inches</u>	<u>N/A*</u>	<u>12 inches</u>	<u>N/A*</u>
<u>nine feet</u>	<u>9 inches</u>	<u>9 inches</u>	<u>12 inches</u>	<u>12 inches</u>	<u>N/A*</u>	<u>12 inches</u>	<u>N/A*</u>
<u>ten feet</u>	<u>9 inches</u>	<u>9 inches</u>	<u>12 inches</u>	<u>N/A*</u>	<u>N/A*</u>	<u>12 inches</u>	<u>N/A*</u>
<u>eleven feet</u>	<u>12 inches</u>	<u>12 inches</u>	<u>12 inches</u>	<u>N/A*</u>	<u>N/A*</u>	<u>N/A*</u>	<u>N/A*</u>

\*This type of material is not allowed due to lack of scientific testing of shock-absorbing properties at this height.

Other materials that have been certified by the manufacturer to be shock-absorbing resilient material in accordance with ASTM Standard 1292, may be used only if installed, maintained and replaced according to the manufacturer's instructions. Gravel shall not be used if the area will be used by children under three years of age.

(g) The resilient surfacing shall extend beyond the external limits of the equipment for a minimum of six feet. The area which is required to have the resilient surfacing is the area under and around the equipment where the child is likely to fall and it is called the fall zone. Fall zones may overlap in three situations: between two swing structures, around spring rockers, or around equipment that is less than 24 inches in height.

(h) Swings shall have resilient surfacing that extends two times the length of the pivot point to the surface below. The surfacing shall be to the front and rear of the swing. Enclosed tot swings shall have resilient surfacing that extends two times the length of the pivot point to the bottom of the swing seat. The surfacing shall be to the front and rear of the swing. Tot swings are defined as those enclosed swing seats used solely by children one year of age and under. Tire swings shall have resilient surfacing that extends a distance of six feet plus the measurement from the pivot point to the swing seat and six feet to the side of the support structure.

(i) Swing seats shall be made of plastic or soft or flexible material.

(j) Elevated platforms shall have a guardrail or protective barrier, depending upon the height of the platform and the age of children that will have access to the piece of equipment. All sides of platforms shall be protected except for the area which allows entry or exit. Guardrails shall prevent inadvertent or unintentional falls off the platform. Protective barriers shall prevent children from climbing over or through the barrier. The critical height for a platform with a protective barrier is the platform surface; the critical height for a platform with a guardrail is the top of the guardrail. Measurements for the guardrails and protective barriers are stated below:

(1) Equipment used by preschool and school-age children:

- (A) Guardrails - an elevated surface that is more than 20 inches and no more than 30 inches above the underlying surface shall have a guardrail. The minimum height of the top surface of the guardrail shall be at least 38 inches high and the lower edge shall be no more than 23 inches above the platform.
- (B) Protective Barriers - an elevated surface that is more than 30 inches above the underlying surface shall have a protective barrier. The minimum height of the top surface of the protective barrier shall be at least 38 inches high.

(2) Equipment used exclusively by preschool children:

- (A) Guardrails - an elevated surface that is more than 20 inches and no more than 30 inches above the underlying surface shall have a guardrail. The minimum height of the top surface of the guardrail shall be at least 29 inches high and the lower edge shall be no more than 23 inches above the platform.
- (B) Protective Barriers - an elevated surface that is more than 30 inches above the underlying surface shall have a protective barrier. The minimum height of the top surface of the protective barrier shall be at least 29 inches high.

(3) Equipment used exclusively by school-age children:

- (A) Guardrails - an elevated surface that is more than 30 inches and no more than 48 inches above the underlying surface shall have a guardrail. The minimum height of the top surface of the guardrail shall be at least 38 inches high and the lower edge shall be no more than 26 inches above the platform.
- (B) Protective Barriers - an elevated surface that is more than 48 inches above the underlying surface shall have a

protective barrier. The minimum height of the top surface of the protective barrier shall be at least 38 inches high.

(k) All equipment and surfacing ordered, constructed or installed on or after October 1, 1997 shall conform to all the requirements in this Rule. All equipment and surfacing ordered, constructed, or installed prior to October 1, 1997 shall conform to Paragraphs (a) through (c) in this Rule. All equipment and surfacing ordered, constructed, or installed prior to October 1, 1997 shall conform with Paragraphs (d) through (j) in this Rule by January 1, 2000.

*History Note: Authority G.S. 110-91(6); 143B-168.3;  
Temporary Adoption Eff. October 1, 1997.*

## SECTION .0700 - HEALTH AND OTHER STANDARDS FOR CENTER STAFF

### .0705 SPECIAL TRAINING REQUIREMENTS

(a) At least one staff member shall be knowledgeable of and able to recognize common contagious and infectious diseases.

(b) Staff who have completed a course in basic first aid in the last three years shall be present at the facility at all times children are present. The number of staff required to complete the course shall be based on the number of children present in the facility as shown in the following chart:

Number of children present	Number of staff required
1 - 29	1 staff
30 - 79	2 staff
80 and above	3 staff

Verification of each required staff person's completion of this course shall be maintained in the person's individual personnel file in the facility. The basic first aid course at a minimum shall address principles for responding to emergencies, rescue breathing, and techniques for handling common childhood injuries, accidents and illnesses such as: choking, burns, fractures, bites and stings, wounds, scrapes, bruises, cuts and lacerations, poisoning, seizures, bleeding, allergic reactions, eye and nose injuries and sudden changes in body temperature.

(c) A first aid information sheet shall be posted in a prominent place for quick referral. Copies of this form may be requested from the Medical Society of the State of North Carolina, P.O. Box 27167, Raleigh, North Carolina, 27611.

(d) Each day care facility shall have at least one person on the premises at all times who has successfully completed a cardiopulmonary resuscitation (CPR) course provided by either the American Heart Association or the American Red Cross within the last 12 months. Successfully completed is defined as demonstrating competency, as evaluated by the instructor, in performing CPR. The course shall provide training in CPR appropriate for the ages of children in care. Documentation of successful completion of the course from the American Heart Association or the American Red Cross shall be on file in the facility.

(e) There shall be at least two staff, including the administrator, who have completed at least four clock hours of training in safety. At a minimum, this training shall address playground safety hazards, playground supervision, maintenance and general upkeep of the outdoor area, and age and developmentally appropriate playground equipment.

~~Each day care facility shall have until January 1, 1997 for the required number of staff people to obtain this training. Administrators hired after July 1, 1996 shall have six months from the date of employment to obtain the training. Staff counted to comply with this rule shall have six months from the date of employment, or from the date a vacancy occurs, to complete the required safety training.~~

*History Note: Authority G.S. 110-91(1)(8); 143B-168.3;  
Eff. January 1, 1986;  
Amended Eff. January 1, 1996; January 1, 1992; January 1, 1991; January 1, 1987;  
Temporary Amendment Eff. October 1, 1997:*

## TITLE 15A - DEPARTMENT OF ENVIRONMENT, HEALTH, AND NATURAL RESOURCES

**Rule-making Agency:** EHNR - Environmental Management Commission

**Rule Citation:** 15A NCAC 2L .0106, .0115; 2N .0701, .0707; 2P .0402

**Effective Date:** January 2, 1998

**Findings Reviewed by Beecher R. Gray:** *Approved*

**Authority for the rule-making:** G.S. 143-215-2; 143-215.3(a)(1); 143-215.3(a)(15); 143-215.94A; 143-215.94B; 143-215.94D; 143-215.94E; 143-215.94L; 143-215.94T; 143-215.94V; 143B-282; 150B-21.6; 1995 (Reg. Sess.) 1996)c.648, s.1.

**Reason for Proposed Action:** 15A NCAC 2L .0106 - to specify the procedures for conducting corrective action where groundwater quality has been degraded to restore groundwaters to the level of the standards or as close thereto as is economically and technologically feasible. Changes to 15A NCAC 2L .0106 are to provide for groundwater cleanups consistent with the adoption of 15A NCAC 2L .0115 (Risk Based Assessment and Corrective Action for Petroleum Underground Storage Tanks). In giving approval of a temporary rule for 15A NCAC 2L .0106, the Environmental Management Commission gave approval such that the previous Temporary Rule amendment to 15A NCAC 2L



.0106(r) and (s) that became effective January 2, 1996 is amended. 15A NCAC 2L .0115 - to specify a risk-based approach to the assessment of risk and corrective action consistent with NCGS 143-215.94V and Senate Bill 1317 {1995 [Reg. Sess. 1996] c.648}. This rule defines a tiered approach to site assessment that will result in the classification of contaminated sites into three risk categories and define appropriate release responses for the respective categories. 15A NCAC 2N .0701 - to specify that the criteria under which Federal Regulations have been adopted by reference in the rules of the state consistent with recent legislative changes. This amendment further specifies that the requirements and standards for corrective action in the State of North Carolina will be 15A NCAC 2L. Changes are to provide consistency with other rule changes made to implement risk based corrective action pursuant to NCGS 143-215-94V and 1995 (Reg. Sess. 1996) c.648, s.1. 15A NCAC 2N .0707 - specifies the criteria under which Federal Regulations governing the provision for a corrective action plan have been incorporated by reference in the rules of the state and specifies the cleanup requirements for development and submittal of corrective action plans. Changes are to provide consistency with other rule changes made to implement risk based corrective action pursuant to NCGS 143-215-94V and 1995 (Reg. Sess. 1996) c.648, s.1. 15A NCAC 2P .0402 - to establish the conditions under which disbursements of funds occur through the Commercial Leaking Petroleum Underground Storage Tank Cleanup Trust Funds. This rulemaking is intended to assure that state trust fund reimbursements are continued for sites that pose the greatest risk and to reduce the demand on trust funds for those sites that are not a threat to public health or the environment. In giving approval of a temporary rule for 15A NCAC 2P .0402, the Environmental Management Commission gave approval such that the previous Temporary Rule amendment to 15A NCAC 2P .0402 that became effective January 2, 1996 is amended.

**Comment Procedures:** No comments will be accepted for this temporary rule. No abbreviated notice will be provided to the public of the temporary rule. In giving approval for these Temporary Rules, the Environmental Management Commission deemed that an abbreviated notice to obtain additional public comment was unnecessary. This is because the text of 15A NCAC 2L .0106 was developed as a result of public hearings held in March 1997 for a permanent rule previously noticed in the North Carolina Register pursuant to NCGS 150B. The text of this temporary rule is the same as the text of the permanent 15A NCAC 2L .0106 that was presented to the Environmental Management Commission on September 11, 1997. This permanent rule is identified as one of the rules in EHNR Rulemaking Number 2100 (Risk Based Corrective Action for Petroleum Underground Storage Tanks). Upon becoming effective, copies of this temporary rule may be obtained from the Division of Water Quality - Groundwater Section, 2728 Capital Boulevard, PO Box

29578, Raleigh, North Carolina, 27626-0578. It is anticipated that the permanent rules will become effective in August 1998 and will supersede the temporary rules that are to go into effect on January 2, 1998.

## CHAPTER 2 - ENVIRONMENTAL MANAGEMENT

### SUBCHAPTER 2L - GROUNDWATER CLASSIFICATION AND STANDARDS

#### SECTION .0100 - GENERAL CONSIDERATIONS

##### .0106 CORRECTIVE ACTION

(a) Where groundwater quality has been degraded, the goal of any required corrective action shall be restoration to the level of the standards, or as closely thereto as is economically and technologically feasible. In all cases involving requests to the Director for approval of corrective action plans, or termination of corrective action, the responsibility for providing all information required by this Rule lies with the person(s) making the request.

(b) Any person conducting or controlling an activity which results in the discharge of a waste or hazardous substance or oil to the groundwaters of the State, or in proximity thereto, shall take immediate action to terminate and control the discharge, mitigate any hazards resulting from exposure to the pollutants and notify the Division of the discharge.

(c) Any person conducting or controlling an activity which has not been permitted by the Division and which results in an increase in the concentration of a substance in excess of the standard, other than agricultural operations, shall:

- (1) immediately notify the Division of the activity that has resulted in the increase and the contaminant concentration levels;
- (2) take immediate action to eliminate the source or sources of contamination;
- (3) submit a report to the Director assessing the cause, significance and extent of the violation; and
- (4) implement an approved corrective action plan for restoration of groundwater quality in accordance with a schedule established by the Director, or his designee. In establishing a schedule the Director, or his designee shall consider any reasonable schedule proposed by the person submitting the plan. A report shall be made to the Health Director of the county or counties in which the contamination occurs in accordance with the requirements of Rule .0114(a) in this Section.

(d) Any person conducting or controlling an activity which is conducted under the authority of a permit issued by the Division and which results in an increase in concentration of a substance in excess of the standards:

- (1) at or beyond a review boundary, shall demonstrate, through predictive calculations or modeling, that natural site conditions, facility design and operational controls will prevent a violation of

standards at the compliance boundary; or submit a plan for alteration of existing site conditions, facility design or operational controls that will prevent a violation at the compliance boundary, and implement that plan upon its approval by the Director, or his designee.

- (2) at or beyond a compliance boundary, shall assess the cause, significance and extent of the violation of standards and submit the results of the investigation, and a plan and proposed schedule for corrective

action to the Director, or his designee. The permittee shall implement the plan as approved by and in accordance with a schedule established by the Director, or his designee. In establishing a schedule the Director, or his designee shall consider any reasonable schedule proposed by the permittee.

(e) For the purposes of Paragraphs (c) and (d) of this Rule, an activity conducted under the authority of a permit issued by the Division, and subject to Paragraph (d) of this Rule, is one for which:

- (1) a permit has been issued pursuant to G.S. 143-215.1;
- (2) the permit was originally issued after December 30, 1983;
- (3) the substance for which a standard has been exceeded outside the compliance boundary has been released to groundwater as a result of the permitted activity;
- (4) all other activities shall for the purpose of this Rule be deemed not permitted by the Division and subject to the provisions of Paragraph (c) of this Rule.

(f) Corrective action required following discovery of the unauthorized release of a contaminant to the surface or subsurface of the land, and prior to or concurrent with the assessment required in Paragraphs (c) and (d) of this Rule, shall include, but is not limited to:

- (1) Prevention of fire, explosion or the spread of noxious fumes;
- (2) Abatement, containment or control of the migration of contaminants;
- (3) Removal, or treatment and control of any primary pollution source such as buried waste, waste stockpiles or surficial accumulations of free products;
- (4) Removal, treatment or control of secondary pollution sources which would be potential continuing sources of pollutants to the groundwaters such as contaminated soils and non-aqueous phase liquids. Contaminated soils which threaten the quality of groundwaters must be treated, contained or disposed of in accordance with applicable rules and procedures established by the Division. The treatment or disposal of contaminated soils shall be conducted in a manner that will not result in a violation of standards or North Carolina Hazardous

Waste Management rules.

(g) The site assessment conducted pursuant to the requirements of Paragraph (c) of this Rule, shall include:

- (1) The source and cause of contamination;
- (2) Any imminent hazards to public health and safety and actions taken to mitigate them in accordance with Paragraph (f) of this Rule;
- (3) All receptors and significant exposure pathways;
- (4) The horizontal and vertical extent of soil and groundwater contamination and all significant factors affecting contaminant transport; and
- (5) Geological and hydrogeological features influencing the movement, chemical, and physical character of the contaminants.

Reports of site assessments shall be submitted to the Division as soon as practicable or in accordance with a schedule established by the Director, or his designee. In establishing a schedule the Director, or his designee shall consider any reasonable proposal by the person submitting the report.

(h) Corrective action plans for restoration of groundwater quality, submitted pursuant to Paragraphs (c) and (d) of this Rule shall include:

- (1) A description of the proposed corrective action and reasons for its selection.
- (2) Specific plans, including engineering details where applicable, for restoring groundwater quality.
- (3) A schedule for the implementation and operation of the proposed plan.
- (4) A monitoring plan for evaluating the effectiveness of the proposed corrective action and the movement of the contaminant plume.

(i) In the evaluation of corrective action plans, the Director, or his designee shall consider the extent of any violations, the extent of any threat to human health or safety, the extent of damage or potential adverse impact to the environment, technology available to accomplish restoration, the potential for degradation of the contaminants in the environment, the time and costs estimated to achieve groundwater quality restoration, and the public and economic benefits to be derived from groundwater quality restoration.

(j) A corrective action plan prepared pursuant to Paragraph (c) or (d) of this Rule must be implemented using the best available technology for restoration of groundwater quality to the level of the standards, except as provided in Paragraphs (k), (l), and ~~(m)~~ (m), (r) and (s) of this Rule.

(k) Any person required to implement an approved corrective action plan for a non-permitted site pursuant to this Rule may request that the Director approve such a plan without requiring groundwater remediation to the standards. A request submitted to the Director under this Paragraph shall include a description of site specific conditions, including information on the availability of public water supplies for the affected area; the technical basis for the request; and any other information requested by the Director to thoroughly evaluate the request. In addition, the person making the request must demonstrate to the satisfaction of the Director:

- (1) that all sources of contamination and free product

- have been removed or controlled pursuant to Paragraph (f) of this Rule;
- (2) that the time and direction of contaminant travel can be predicted with reasonable certainty;
  - (3) that contaminants have not and will not migrate onto adjacent properties, or that:
    - (A) such properties are served by an existing public water supply system dependent on surface waters or hydraulically isolated groundwater, or
    - (B) the owners of such properties have consented in writing to the request;
  - (4) that the standards specified in Rule .0202 of this Subchapter will be met at a location no closer than one year time of travel upgradient of an existing or foreseeable receptor, based on travel time and the natural attenuation capacity of subsurface materials or on a physical barrier to groundwater migration that exists or will be installed by the person making the request;
  - (5) that, if the contaminant plume is expected to intercept surface waters, the groundwater discharge will not possess contaminant concentrations that would result in violations of standards for surface waters contained in 15A NCAC 2B .0200;
  - (6) that public notice of the request has been provided in accordance with Rule .0114(b) of this Section;
  - (7) that the proposed corrective action plan would be consistent with all other environmental laws.
- (l) Any person required to implement an approved corrective action plan for a non-permitted site pursuant to this Rule may request that the Director approve such a plan based upon natural processes of degradation and attenuation of contaminants. A request submitted to the Director under this Paragraph shall include a description of site specific conditions, including written documentation of projected groundwater use in the contaminated area based on current state or local government planning efforts; the technical basis for the request; and any other information requested by the Director to thoroughly evaluate the request. In addition, the person making the request must demonstrate to the satisfaction of the Director:
- (1) that all sources of contamination and free product have been removed or controlled pursuant to Paragraph (f) of this Rule;
  - (2) that the contaminant has the capacity to degrade or attenuate under the site-specific conditions;
  - (3) that the time and direction of contaminant travel can be predicted with reasonable certainty;
  - (4) that contaminant migration will not result in any violation of applicable groundwater standards at any existing or foreseeable receptor;
  - (5) that contaminants have not and will not migrate onto adjacent properties, or that:
    - (A) such properties are served by an existing public water supply system dependent on

- surface waters or hydraulically isolated groundwater, or
- (B) the owners of such properties have consented in writing to the request;
  - (6) that, if the contaminant plume is expected to intercept surface waters, the groundwater discharge will not possess contaminant concentrations that would result in violations of standards for surface waters contained in 15A NCAC 2B .0200;
  - (7) that the person making the request will put in place a groundwater monitoring program sufficient to track the degradation and attenuation of contaminants and contaminant by-products within and down gradient of the plume and to detect contaminants and contaminant by-products prior to their reaching any existing or foreseeable receptor at least one year's time of travel upgradient of the receptor and no greater than the distance the groundwater at the contaminated site is predicted to travel in five years;
  - (8) that all necessary access agreements needed to monitor groundwater quality pursuant to Subparagraph (7) of this Paragraph have been or can be obtained;
  - (9) that public notice of the request has been provided in accordance with Rule .0114(b) of this Section; and
  - (10) that the proposed corrective action plan would be consistent with all other environmental laws.
- (m) The Division or any person required to implement an approved corrective action plan for a non-permitted site pursuant to this Rule may request that the Director approve termination of corrective action.
- (1) A request submitted to the Director under this Paragraph shall include:
    - (A) a discussion of the duration of the corrective action, the total project's cost, projected annual cost for continuance and evaluation of the success of the corrective action;
    - (B) an evaluation of alternate treatment technologies which could result in further reduction of contaminant levels projected capital and annual operating costs for each technology;
    - (C) effects, including health and safety impacts, on groundwater users if contaminant levels remain at levels existing at the time corrective action is terminated; and
    - (D) any other information requested by the Director to thoroughly evaluate the request.
  - (2) In addition, the person making the request must demonstrate to the satisfaction of the Director:
    - (A) that continuation of corrective action would not result in a significant reduction in the concentration of contaminants (At a minimum this demonstration must show the

duration and degree of success of existing remedial efforts to attain standards and include a showing that the asymptotic slope of the contaminants curve of decontamination is less than a ratio of 1:40 over a term of one year based on quarterly sampling);

(B) that contaminants have not and will not migrate onto adjacent properties, or that:

- (i) such properties are served by an existing public water supply system dependent on surface waters or hydraulically isolated groundwater, or
- (ii) the owners of such properties have consented in writing to the request;

(C) that, if the contaminant plumes expected to intercept surface waters, the groundwater discharge will not possess contaminant concentrations that would result in violations of standards for surface waters contained in 15A NCAC 2B .0200;

(D) that public notice of the request has been provided in accordance with Rule .0114(b) of this Section; and

(E) that the proposed termination would be consistent with all other environmental laws.

(3) The Director shall not authorize termination of corrective action for any area that, at the time the request is made, has been identified by a state or local groundwater use planning process for resource development.

(4) The Director may authorize the termination of corrective action, or amend the corrective action plan after considering all the information in the request. Upon termination of corrective action, the Director shall require implementation of a groundwater monitoring program sufficient to track the degradation and attenuation of contaminants at a location of at least one year's predicted time of travel upgradient of any existing or foreseeable receptor. The monitoring program shall remain in effect until there is sufficient evidence that the contaminant concentrations have been reduced to the level of the standards.

(n) Upon a determination by the Director that continued corrective action would result in no significant reduction in contaminant concentrations, and the contaminated groundwaters can be rendered potable by treatment using readily available and economically reasonable technologies, the Director may designate the remaining area of degraded groundwater RS. Where the remaining degraded groundwaters cannot be made potable by such treatment, the Director may consider a request for reclassification of the groundwater to a GC classification as outlined in Rule .0201 of this Subchapter.

(o) If at any time the Director determines that a new technology is available that would remediate the contaminated groundwater to the standards specified in Rule .0202 of this

Subchapter, the Director may require the responsible party to evaluate the economic and technological feasibility of implementing the new technology in an active groundwater corrective action plan in accordance with a schedule established by the Director. The Director's determination to utilize new technology at any site or for any particular constituent shall include a consideration of the factors in Paragraph (h) of this Rule.

(p) Where standards are exceeded as a result of the application of pesticides or other agricultural chemicals, the Director shall request the Pesticide Board or the Department of Agriculture to assist the Division of Environmental Management in determining the cause of the violation. If the violation is determined to have resulted from the use of pesticides, the Director shall request the Pesticide Board to take appropriate regulatory action to control the use of the chemical or chemicals responsible for, or contributing to, such violations, or to discontinue their use.

(q) The approval pursuant to this Rule of any corrective action plan, or modification or termination thereof, which permits the migration of a contaminant onto adjacent property, shall not affect any private right of action by any party which may be effected by that contamination.

(r) If a discharge or release is not governed by 15A NCAC 2L .0115 and the increase in the concentration of a substance in excess of the standard resulted in whole or in part from a release from a commercial or noncommercial underground storage tank as defined in G.S. 143-215.94A, any person required to implement an approved corrective action plan pursuant to this Rule and seeking reimbursement for the Commercial or Noncommercial Leaking Petroleum Underground Storage Tank Cleanup Funds shall implement a corrective action plan meeting the requirements of Paragraphs (k) or (l) of this Rule unless such a person demonstrates to the Director that:

- (1) contamination resulting from the discharge cannot qualify for approval of a plan based on the requirements of the Paragraphs; or
- (2) the cost of making such a demonstration would exceed the cost of implementing a corrective action plan submitted pursuant to Paragraph (c) of this Rule.

(s) If a discharge or release is not governed by 15A NCAC 2L .0115 and the increase in the concentration of a substance in excess of the standard resulted in whole or in part from a release from a commercial or noncommercial underground storage tank as defined in G.S. 143-215.94A, the Director may require any person implementing or operating a previously approved corrective action plan pursuant to this Rule to:

- (1) develop and implement a corrective action plan meeting the requirements of Paragraphs (k) and (l) of this Rule; or
- (2) seek discontinuance of corrective action pursuant to Paragraph (m) of this Rule.

History Note: Authority G.S. 143-215.2; 143-215.3(a)(1);

143-215.94A; 143-215.94(T); 143-215.94V; 143B-282; 1995  
(Reg. Sess.; 1996) c. 648, s. 1:  
Eff. August 1, 1989;  
Temporary Amendment Eff. January 2, 1998.

**.0115 RISK-BASED ASSESSMENT AND  
CORRECTIVE ACTION FOR PETROLEUM  
UNDERGROUND STORAGE TANKS**

(a) The purpose of this Rule is to establish procedures for risk-based assessment and corrective action sufficient to:

- (1) protect human health and the environment;
- (2) abate and control contamination of the waters of the State as deemed necessary to protect human health and the environment;
- (3) permit management of the State's groundwaters to protect their designated current usage and potential future uses;
- (4) provide for anticipated future uses of the State's groundwater;
- (5) recognize the diversity of contaminants, the State's geology and the characteristics of each individual site; and
- (6) accomplish these goals in a cost-efficient manner to assure the best use of the limited resources available to address groundwater pollution within the State.

(b) This Rule applies to any discharge or release from a "commercial underground storage tank" or a "noncommercial underground storage tank," as those terms are defined in G.S. 143-215.94A, which is reported on or after the effective date of this Rule. This Rule shall apply to any discharge or release from a "commercial underground storage tank" or a "noncommercial underground storage tank," as those terms are defined in G.S. 143-215.94A which is reported before the effective date of this Rule as provided in Paragraph (r) of this Rule. The requirements of this Rule shall apply to the owner and operator of the underground storage tank from which the discharge or release occurred, a landowner seeking reimbursement from the Commercial Leaking Underground Storage Tank Fund or the Noncommercial Leaking Underground Storage Tank Fund under G.S. 143-215.94E, and any other person responsible for the assessment or cleanup of a discharge or release from an underground storage tank, including any person who has conducted or controlled an activity which results in the discharge or release of petroleum or petroleum products as defined in G.S. 143-215.94A(10) to the groundwaters of the State, or in proximity thereto; these persons shall be collectively referred to for purposes of this Rule as the "responsible party." This Rule shall be applied in a manner consistent with the Rules found in 15A NCAC 2N in order to assure that the State's requirements regarding assessment and cleanup from underground storage tanks are no less stringent than Federal requirements.

(c) A responsible party shall:

- (1) take immediate action to prevent any further

discharge or release of petroleum from the underground storage tank; identify and mitigate any fire, explosion or vapor hazard; remove any free product; and comply with the requirements of Rules .0601 through .0604 and .0701 through .0703 and .0705 of Subchapter 2N;

- (2) incorporate the requirements of 15A NCAC 2N .0704 into the submittal required under Subparagraph (3) of this Paragraph or the limited site assessment report required under Subparagraph (4) of this Paragraph, whichever is applicable. Such submittals shall constitute compliance with the reporting requirements of 15A NCAC 2N .0704(b);
- (3) submit within 90 days of the discovery of the discharge or release a soil contamination report containing information sufficient to show that remaining unsaturated soil in the side walls and at the base of the excavation does not contain contaminant levels which exceed either the "soil-to-groundwater" or the residential maximum soil contaminant concentrations established by the Department pursuant to Paragraph (m) of this Rule, whichever is lower. If such showing is made, the discharge or release shall be classified as low risk by the Department;
- (4) if the required showing cannot be made under Subparagraph (3) of this Paragraph, submit within 120 days of the discovery of the discharge or release, or within such other time limit approved by the Department, a report containing information needed by the Department to classify the level of risk to human health and the environment posed by a discharge or release under Paragraph (d) of this Rule. Such report shall include, at a minimum:
  - (A) a location map, based on a USGS topographic map, showing the radius of 1500 feet from the source area of a confirmed release or discharge and depicting all water supply wells, surface waters and designated wellhead protection areas as defined in 42 USC 300h-7(e) within the 1500-foot radius. For purposes of this Rule, source area means point of release or discharge from the underground storage tank system;
  - (B) a determination of whether the source area of the discharge or release is within a designated wellhead protection area as defined in 42 USC 300h-7(e);
  - (C) if the discharge or release is in the Coastal Plain physiographic region as designated on a map entitled "Geology of North Carolina" published by the Department in 1985, a determination of whether the source area of the discharge or release is located in an area in which there is recharge to an unconfined or semi-confined deeper aquifer which is

- being used or may be used as a source of drinking water;
- (D) a determination of whether vapors from the discharge or release pose a threat of explosion due to the accumulation of vapors in a confined space or pose any other serious threat to public health, public safety or the environment;
- (E) scaled site map(s) showing the location of the following which are on or adjacent to the property where the source is located: site boundaries, roads, buildings, basements, floor and storm drains, subsurface utilities, septic tanks and leach fields, underground storage tank systems, monitoring wells, borings and the sampling points;
- (F) the results from a limited site assessment which shall include:
- (i) the analytical results from soil samples collected during the construction of a monitoring well installed in the source area of each confirmed discharge or release from a noncommercial or commercial underground storage tank and either the analytical results of a groundwater sample collected from the well or, if free product is present in the well, the amount of free product in the well. The soil samples shall be collected every five feet in the unsaturated zone unless a water table is encountered at or greater than a depth of 25 feet from land surface in which case soil samples shall be collected every 10 feet in the unsaturated zone. The soil samples shall be collected from suspected worst-case locations exhibiting visible contamination or elevated levels of volatile organic compounds in the borehole;
  - (ii) if any constituent in the groundwater sample from the source area monitoring well installed in accordance with Subpart (i) of this Part exceeds the standards or interim standards established in 15A NCAC 2L .0202 by a factor of 10 and is a discharge or release from a commercial underground storage tank, the analytical results from a groundwater sample collected from each of four additional monitoring wells or, if free product is present in any of the wells, the amount of free product in such well. The four additional monitoring wells will be installed as follows: as best as can be determined, one upgradient of the source of contamination; two downgradient of the source of contamination; and one vertical-extent well immediately downgradient from the source but within the area of contamination. The monitoring wells installed upgradient and downgradient of the source of contamination must be located such that groundwater flow direction can be determined and;
- (iii) potentiometric data from all required wells;
- (G) the availability of public water supplies and the identification of properties served by the public water supplies within 1500 feet of the source area of a confirmed discharge or release;
- (H) the land use, including zoning if applicable, within 1500 feet of the source area of a confirmed discharge or release;
- (I) a discussion of site specific conditions or possible actions which could result in lowering the risk classification assigned to the release. Such discussion shall be based on information known or required to be obtained under this Subsection; and
- (J) names and current addresses of all owners and operators of the underground storage tank systems for which a discharge or release is confirmed, the owner(s) of the land upon which such systems are located, and all potentially affected real property owners.
- (d) The Department shall classify the risk of each known discharge or release as high, intermediate or low risk unless the discharge or release has been classified under Subparagraph (c)(3) of this Rule. For purposes of this Rule:
- (I) "High risk" means that:
    - (A) a water supply well, including one used for non-drinking purposes, has been contaminated by the release or discharge;
    - (B) a water supply well used for drinking water is located within 1000 feet of the source area of a confirmed discharge or release;
    - (C) a water supply well not used for drinking water is located within 250 feet of the source area of a confirmed discharge or release;
    - (D) the groundwater within 500 feet of the source area of a confirmed discharge or release has the potential for future use in that there is no source of water supply other than the groundwater;
    - (E) the vapors from the discharge or release pose a serious threat of explosion due to accumulation of the vapors in a confined



- space; or
- (F) the discharge or release poses an imminent danger to public health, public safety, or the environment.
- (2) "Intermediate risk" means that:
- (A) surface water is located within 500 feet of the source area of a confirmed discharge or release and the maximum groundwater contaminant concentration exceeds the applicable surface water quality standards and criteria found in 15A NCAC 2B .0200 by a factor of 10;
- (B) in the Coastal Plain physiographic region as designated on a map entitled "Geology of North Carolina" published by the Department in 1985, the source area of a confirmed discharge or release is located in an area in which there is recharge to an unconfined or semi-confined deeper aquifer which the Department determines is being used or may be used as a source of drinking water;
- (C) the source area of a confirmed discharge or release is within a designated wellhead protection area, as defined in 42 USC 300h-7(e);
- (D) the levels of groundwater contamination for any contaminant except ethylene dibromide, benzene and alkane and aromatic carbon fraction classes exceed 50 percent of the solubility of the contaminant at 25 degrees Celsius or 1,000 times the groundwater standard or interim standard established in 15A NCAC 2L .0202, whichever is lower; or
- (E) the levels of groundwater contamination for ethylene dibromide and benzene exceed 1,000 times the federal drinking water standard set out in 40 CFR 141.
- (3) "Low risk" means that:
- (A) the risk posed does not fall within the high or intermediate risk categories; or
- (B) based on review of site-specific information, limited assessment or interim corrective actions, the Department determines that the discharge or release poses no significant risk to human health or the environment.

If the criteria for more than one risk category applies, the discharge or release shall be classified at the highest applicable risk category unless the Department has reclassified the discharge or release pursuant to Paragraph (e) of this Rule.

(e) The Department may reclassify the risk posed by a release if warranted by further information concerning the potential exposure of receptors to the discharge or release or upon receipt of new information concerning changed

conditions at the site. After initial classification of the discharge or release, the Department may require limited assessment, interim corrective action, or other actions which the Department believes will result in a lower risk classification. It shall be a continuing obligation of each responsible party to notify the Department of any changes that might affect the level of risk assigned to a discharge or release by the Department if the change is known or should be known by the responsible party. Such changes shall include, but shall not be limited to, changes in zoning of real property, use of real property or the use of groundwater that has been contaminated or is expected to be contaminated by the discharge or release, if such change could cause the Department to reclassify the risk.

(f) If the risk posed by a discharge or release is determined by the Department to be high risk, the responsible party shall comply with the assessment and cleanup requirements of Rule .0106(c), (g) and (h) of this Subchapter and 15A NCAC 2N .0706 and .0707. The goal of any required corrective action for groundwater contamination shall be restoration to the level of the groundwater standards set forth in 15A NCAC 2L .0202, or as closely thereto as is economically and technologically feasible. In any corrective action plan submitted pursuant to this Subsection, natural attenuation shall be used to the maximum extent possible. If the responsible party demonstrates that natural attenuation prevents the further migration of the plume, the Department may approve a groundwater monitoring plan.

(g) If the risk posed by a discharge or release is determined by the Department to be an intermediate risk, the responsible party shall comply with the assessment requirements of 15A NCAC 2L .0106 (c) and (g) and 15A NCAC 2N .0706. As part of the comprehensive site assessment, the responsible party shall evaluate, based on site specific conditions, whether the release poses a significant risk to human health or the environment. If the Department determines, based on the site-specific conditions, that the discharge or release does not pose a significant threat to human health or the environment, the site shall be reclassified as a low risk site. If the site is not reclassified, the responsible party shall, at the direction of the Department, submit a groundwater monitoring plan or a corrective action plan, or a combination thereof, meeting the cleanup standards of this Paragraph and containing the information required in 15A NCAC 2L .0106(h) and 15A NCAC 2N .0707. Discharges or releases which are classified as intermediate risk shall be remediated, at a minimum, to a cleanup level of 50 percent of the solubility of the contaminant at 25 degrees Celsius or 1,000 times the groundwater standard or interim standard established in 15A NCAC 2L .0202, whichever is lower for any groundwater contaminant except ethylene dibromide, benzene and alkane and aromatic carbon fraction classes. Ethylene dibromide and benzene shall be remediated to a cleanup level of 1,000 times the federal drinking water standard set out in 40 CFR 141. Additionally, if a corrective action plan or groundwater monitoring plan is required under

this Paragraph, the responsible party shall demonstrate that the groundwater cleanup levels are sufficient to prevent a violation of:

- (1) the rules contained in 15A NCAC 2B;
- (2) the standards contained in 15A NCAC 2L .0202 in a deep aquifer as described in Part (d)(2)(B) of this Rule; and
- (3) the standards contained in 15A NCAC 2L .0202 at a location no closer than one year time of travel upgradient of a well within a designated wellhead protection area, based on travel time and the natural attenuation capacity of the subsurface materials or on a physical barrier to groundwater migration that exists or will be installed by the person making the request.

In any corrective action plan submitted pursuant to this Subsection, natural attenuation shall be used to the maximum extent possible.

(h) If the risk posed by a discharge or release is determined by the Department to be a low risk, the Department shall notify the responsible party that no cleanup, no further cleanup or no further action will be required by the Department unless the Department later determines that the discharge or release poses an unacceptable risk or a potentially unacceptable risk to human health or the environment. No notification will be issued pursuant to this subsection, however, until the responsible party has completed soil remediation pursuant to Paragraph (i) of this Rule except as provided in Paragraph (r) or as closely thereto as economically or technologically feasible. The issuance by the Department of a notification under this Paragraph shall not affect any private right of action by any party which may be affected by the contamination.

(i) Assessment and remediation of soil contamination shall be addressed as follows:

- (1) At the time that the Department determines the risk posed by the discharge or release, the Department shall also determine, based on site-specific information, whether the site is "residential" or "industrial/commercial." For purposes of this Rule, a site is presumed residential, but may be classified as industrial/commercial if the Department determines based on site-specific information that exposure to the soil contamination is limited in time due to the use of the site and does not involve exposure to children. For purposes of this Paragraph, "site" means both the property upon which the discharge or release has occurred and any property upon which soil has been affected by the discharge or release.
- (2) The responsible party shall submit a report to the Department assessing the vertical and horizontal extent of soil contamination.
- (3) For a discharge or release classified by the Department as low risk, the responsible party shall submit a report demonstrating that soil contamination has been remediated to either the

residential or industrial/commercial maximum soil contaminant concentration established by the Department pursuant to Paragraph (m) of this Rule, whichever is applicable.

- (4) For a discharge or release classified by the Department as high or intermediate risk, the responsible party shall submit a report demonstrating that soil contamination has been remediated to the lowest of:

(A) the residential or industrial/commercial maximum soil contaminant concentration, whichever is applicable, that has been established by the Department pursuant to Paragraph (m) of this Rule; or

(B) the "soil-to-groundwater" maximum soil contaminant concentration that has been established by the Department pursuant to Paragraph (m) of this Rule.

(j) A responsible party who submits a corrective action plan which proposes natural attenuation or to cleanup groundwater contamination to a standard other than a standard or interim standard established in 15A NCAC 2L .0202, or to cleanup soil other than to the standard for residential use or soil-to-groundwater contaminant concentration established pursuant to this Rule, whichever is lower, shall give notice to: the local Health Director and the chief administrative officer of each political jurisdiction in which the contamination occurs; all property owners and occupants within or contiguous to the area containing the contamination; and all property owners and occupants within or contiguous to the area where the contamination is expected to migrate. Such notice shall describe the nature of the plan and the reasons supporting it. Notification shall be made by certified mail concurrent with the submittal of the corrective action plan. Approval of the corrective action plan by the Department shall be postponed for a period of 30 days following receipt of the request so that the Department may consider comments submitted by interested individuals. The responsible party shall, within a time frame determined by the Department, provide the Department with a copy of the notice and proof of receipt of each required notice, or of refusal by the addressee to accept delivery of a required notice. If notice by certified mail to occupants under this Subsection is impractical, the responsible party may give notice by posting such notice prominently in a manner designed to give actual notice to the occupants. If notice is made to occupants by posting, the responsible party shall provide the Department with a copy of the posted notice and a description of the manner in which such posted notice was given.

(k) A responsible party who receives a notice pursuant to Paragraph (h) of this Rule for a discharge or release which has not been remediated to the groundwater standards or interim standards established in Rule .0202 of this Subchapter or to the lower of the residential or soil-to-groundwater contaminant concentrations established under Paragraph (m) of this Rule, shall, within 30 days of the receipt of such notice, provide a copy of the notice to: the local Health



Director and the chief administrative officer of each political jurisdiction in which the contamination occurs; all property owners and occupants within or contiguous to the area containing contamination; and all property owners and occupants within or contiguous to the area where the contamination is expected to migrate. Notification shall be made by certified mail. The responsible party shall, within a time frame determined by the Department, provide the Department with proof of receipt of the copy of the notice, or of refusal by the addressee to accept delivery of the copy of the notice. If notice by certified mail to occupants under this Paragraph is impractical, the responsible party may give notice by posting a copy of the notice prominently in a manner designed to give actual notice to the occupants. If notice is made to occupants by posting, the responsible party shall provide the Department with a description of the manner in which such posted notice was given.

(l) To the extent feasible, the Department shall maintain in each of the Department's regional offices a list of all petroleum underground storage tank discharges or releases discovered and reported to the Department within the region on or after the effective date of this rule and all petroleum underground storage tank discharges or releases for which notification was issued under Paragraph (h) by the Department on or after the effective date of this Rule.

(m) The Department shall publish, and annually revise, maximum soil contaminant concentrations to be used as soil cleanup levels for contamination from petroleum underground storage tank systems. Maximum soil contaminant concentrations will be established for residential, industrial/commercial and soil-to-groundwater exposures.

(1) The following equations and references shall be used in establishing residential maximum soil contaminant concentrations. Equation 1 shall be used for each contaminant with an EPA carcinogenic classification of A, B1, B2, C, D or E. Equation 2 shall be used for each contaminant with an EPA carcinogenic classification of A, B1, B2 or C. The maximum soil contaminant concentration shall be the lowest of the concentrations derived from Equations 1 and 2.

(A) Equation 1: Non-cancer Risk-based Residential Concentration  

$$\text{Soil mg/kg} = 15,642.86 \times \text{oral chronic reference dose.}$$

(B) Equation 2: Cancer Risk-based Residential Concentration  

$$\text{Soil mg/kg} = 0.6387 / \text{oral cancer slope factor.}$$

(C) The following references or the most recent version of these references, in order of preference, shall be used to obtain oral chronic reference doses and oral cancer slope factors:

(i) EPA. Integrated Risk Information System (IRIS) Computer Database;

(ii) EPA. Health Effects Assessment Summary Tables (HEAST);

(iii) EPA Region III. Risk-based Concentration Tables (RBC Tables). Office of RCRA, Technical and Program Support Branch. Available at: <http://www.epa.gov/reg3hwmd/index.html>;

(iv) EPA. 1995. Supplemental Guidance to RAGS: Region 4 Bulletins Human Health Risk Assessment, including future amendments; and

(v) Other appropriate, published health risk assessment data, and scientifically valid peer-reviewed published toxicological data.

(2) The following equations and references shall be used in establishing industrial/commercial maximum soil contaminant concentrations. Equation 1 shall be used for each contaminant with an EPA carcinogenic classification of A, B1, B2, C, D or E. Equation 2 shall be used for each contaminant with an EPA carcinogenic classification of A, B1, B2 or C. The maximum soil contaminant concentration shall be the lowest of the concentrations derived from Equations 1 and 2.

(A) Equation 1: Non-cancer Risk-based Industrial/Commercial Concentration  

$$\text{Soil mg/kg} = 408,800 \times \text{oral chronic reference dose.}$$

(B) Equation 2: Cancer Risk-based Industrial/Commercial Concentration  

$$\text{Soil mg/kg} = 5.7232 / \text{oral cancer slope factor.}$$

(C) The following references or the most recent version of these references, in order of preference, shall be used to obtain oral chronic reference doses and oral cancer slope factors:

(i) EPA. Integrated Risk Information System (IRIS) Computer Database;

(ii) EPA. Health Effects Assessment Summary Tables (HEAST);

(iii) EPA Region III. Risk-based Concentration Tables (RBC Tables). Office of RCRA, Technical and Program Support Branch. Available at: <http://www.epa.gov/reg3hwmd/index.html>;

(iv) EPA. 1995. Supplemental Guidance to RAGS: Region 4 Bulletins Human Health Risk Assessment, including future amendments; and

- (v) Other appropriate, published health risk assessment data, and scientifically valid peer-reviewed published toxicological data.
- (3) The following equations and references shall be used in establishing the soil-to-groundwater maximum contaminant concentrations:

(A) Organic Constituents:

Soil mg/kg = groundwater standard or interim standard x [(0.02 x soil organic carbon-water partition coefficient) ± 4 ± (1.733 x 41 x Henry's Law Constant (atm.-m<sup>3</sup>/mole))].

- (i) If no groundwater standard or interim standard has been established under Rule 2L .0202 of this Subchapter, the practical quantitation limit should be used in lieu of a standard to calculate the soil-to-groundwater maximum contaminant concentrations.

- (ii) The following references or the most recent version of these references, in order of preference, shall be used to obtain soil organic carbon-water partition coefficients and Henry's Law Constants:

- (I) EPA, 1996. Soil Screening Guidance: Technical Background Document. (EPA/540/R95/128);
- (II) EPA, 1986. Superfund Public Health Evaluation Manual. Office of Emergency and Remedial Response (EPA/540/1-86/060);
- (III) Agency for Toxic Substances and Disease Registry. "Toxicological Profile for [individual chemical]." U.S. Public Health Service;
- (IV) Montgomery, J.H., 1996. Groundwater Chemicals Desk Reference. CRC Press, Inc;
- (V) Sims, R.C., J.L. Sims and S.G. Hansen, 1991. Soil Transport and Fate Database, Version 2.0. EPA Robert S. Kerr Environmental Laboratory; and
- (VI) Other appropriate, published, peer-reviewed and scientifically valid data.

(B) Inorganic Constituents:

Soil mg/kg = groundwater standard or interim standard x [(20 x soil-water partition coefficient for pH of 5.5) ± 4 ± (1.733 x 41 x Henry's

Law Constant (atm.-m<sup>3</sup>/mole))].

- (i) If no groundwater standard or interim standard has been established under Rule 2L .0202 of this Subchapter, the practical quantitation limit should be used in lieu of a standard to calculate the soil-to-groundwater maximum contaminant concentrations.

- (ii) The following references or the most recent version of these references, in order of preference, shall be used to obtain soil-water partition coefficients and Henry's Law Constants:

- (I) EPA, 1996. Soil Screening Guidance: Technical Background Document. (EPA/540/R95/128);
- (II) Baes, C.F., III, R.D. Sharp, A.L. Sjoreen, and R.W. Shor, 1984. A Review and Analysis of Parameters for Assessing Transport of Environmentally Released Radionuclides Through Agriculture. Oak Ridge National Laboratory;
- (III) Agency for Toxic Substances and Disease Registry. "Toxicological Profile for [individual chemical]." U.S. Public Health Service;
- (IV) Sims, R.C., J.L. Sims and S.G. Hansen, 1991. Soil Transport and Fate Database, Version 2.0. EPA Robert S. Kerr Environmental Laboratory; and
- (V) Other appropriate, published, peer-reviewed and scientifically valid data.

- (n) Analytical procedures for soil samples required under this Rule shall be as follows:

- (1) soil samples collected from a discharge or release of low boiling point fuels, including, but not limited to gasoline, aviation gasoline and gasohol, shall be analyzed for volatile organic compounds and additives using EPA Method 8260, including isopropyl ether and methyl tertiary butyl ether;
- (2) soil samples collected from a discharge or release of high boiling point fuels, including, but not limited to, kerosene, diesel, varsol, mineral spirits, naphtha, jet fuels and fuel oil no. 2, shall be analyzed for volatile organic compounds using EPA Method 8260 and semivolatile organic compounds using EPA Method 8270;
- (3) soil samples collected from a discharge or release of heavy fuels shall be analyzed for semivolatile organic compounds using EPA Method 8270;

- (4) soil samples collected from a discharge or release of used and waste oil shall be analyzed for volatile organic compounds using EPA Method 8260, semivolatile organic compounds using EPA Method 8270, polychlorinated biphenyls using EPA Method 8080, and chromium and lead, using procedures specified in Subparagraph (6) of this Paragraph;
  - (5) soil samples collected from any discharge or release subject to this Rule shall be analyzed for alkane and aromatic carbon fraction classes using methods approved by the Director under Rule 2H .0805(a)(1) of this Chapter;
  - (6) analytical methods specified in Subparagraphs (1), (2), (3), and (4) of this Paragraph shall be performed as specified in the following references or the most recent version of these references: Test Methods for Evaluating Solid Wastes: Physical/Chemical Methods, November 1990, U.S. Environmental Protection Agency publication number SW-846; or in accordance with other methods or procedures approved by the Director under 15A NCAC 2H .0805(a)(1);
  - (7) other EPA-approved analytical methods may be used if the methods include the same constituents as the analytical methods specified in Subparagraphs (1), (2), (3), and (4) of this Paragraph and meet the detection limits of the analytical methods specified in Subparagraphs (1), (2), (3), and (4) of this Paragraph; and
  - (8) metals and acid extractable organic compounds shall be eliminated from analyses of soil samples collected pursuant to this Rule, if these compounds are not detected in soil samples collected during the construction of the source area monitoring well required under Subpart (c)(4)(F)(i) of this Rule.
- (o) Analytical procedures for groundwater samples required under this Rule shall be as follows:
- (1) groundwater samples collected from a discharge or release of low boiling point fuels, including, but not limited to, gasoline, aviation gasoline and gasohol, shall be analyzed for volatile organic compounds using Standard Method 6210D or EPA Methods 601 and 602, including xylenes, isopropyl ether and methyl tertiary butyl ether. Samples shall also be analyzed for ethylene dibromide using EPA Method 504.1 and lead using Standard Method 3030C preparation, 3030C metals preparation, using a 0.45 micron filter, must be completed within 72 hours of sample collection;
  - (2) groundwater samples collected from a discharge or release of high boiling point fuels, including, but not limited to, kerosene, diesel, varsol, mineral spirits, naphtha, jet fuels and fuel oil no. 2, shall be analyzed for volatile organic compounds using EPA Method 602 and semivolatile organic compounds plus the 10 largest non-target peaks identified using

EPA Method 625:

- (3) groundwater samples collected from a discharge or release of heavy fuels shall be analyzed for semivolatile organic compounds plus the 10 largest non-target peaks identified using EPA Method 625;
  - (4) groundwater samples collected from a discharge or release of used or waste oil shall be analyzed for volatile organic compounds using Standard Method 6210D, semivolatile organic compounds plus the 10 largest non-target peaks identified using EPA Method 625, and chromium and lead using Standard Method 3030C preparation, 3030C metals preparation, using a 0.45 micron filter, must be completed within 72 hours of sample collection;
  - (5) groundwater samples collected from any discharge or release subject to this Rule shall be analyzed for alkane and aromatic carbon fraction classes using methods approved by the Director under Rule 2H .0805(a)(1) of this Chapter;
  - (6) analytical methods specified in Subparagraphs (1), (2), (3) and (4) of this Paragraph shall be performed as specified in the following references or the most recent version of these references: Test Procedures for the Analysis of Pollutants under the Clean Water Act, Federal Register Vol. 49 No. 209, 40 CFR Part 136, October 26, 1984; Standard Methods for the Examination of Water and Wastewater, published jointly by American Public Health Association, American Water Works Association and Water Pollution Control Federation; Methods for Determination of Organic Compounds in Drinking Water, U.S. Environmental Protection Agency publication number EPA-600/4-79-020; or in accordance with other methods or procedures approved by the Director under 15A NCAC 2H .0805(a)(1);
  - (7) other EPA-approved analytical methods may be used if the methods include the same constituents as the analytical methods specified in Subparagraphs (1), (2), (3), and (4) of this Paragraph and meet the detection limits of the analytical methods specified in Subparagraphs (1), (2), (3), and (4) of this Paragraph; and
  - (8) metals and acid extractable organic compounds shall be eliminated from analyses of groundwater samples collected pursuant to this Rule, if these compounds are not detected in the groundwater sample collected from the source area monitoring well installed pursuant to Subpart (c)(4)(F)(i) of this Rule.
- (p) In accordance with 15A NCAC 2H .0804, laboratories are required to obtain North Carolina Division of Water Quality laboratory certification for parameters that are required to be reported to the State in compliance with the State's surface water, groundwater and pretreatment rules.
- (q) This Rule shall not relieve any person responsible for

assessment or cleanup of contamination from a source other than a commercial or noncommercial underground storage tank from its obligation to assess and clean up contamination resulting from such discharge or releases.

(r) If the risk posed by the discharge or release has been classified by the Department as Class AB under 1995 (Reg. Sess., 1996) c. 648, s. 1, the discharge or release is classified as high risk under this Rule unless and until the Department reclassifies the risk posed by the discharge or release. If the risk posed by the discharge or release has been classified by the Department as Class CDE under 1995 (Reg. Sess., 1996) c. 648, s. 1, the discharge or release is classified as low risk under this Rule unless and until the Department reclassifies the risk posed by the discharge or release. It shall be the obligation of the responsible party to notify the Department of any factors that might affect the level of risk assigned to Class AB or Class CDE discharges or releases by the Department. Responsible parties for Class AB discharges or releases for which a site assessment pursuant to Rule .0106 (c) and (g) has been submitted to the Department before the effective date of this Rule, shall continue to comply with notices previously received from the Department unless and until the Department determines that application of all or part of this Rule is necessary to protect human health or the environment or may result in a more cost effective assessment and cleanup of the discharge or release. If a site assessment pursuant to Rule .0106 (c) and (g) of this Section has not been submitted to the Department for a Class AB or Class CDE discharge or release before the effective date of this Rule, the responsible party shall comply with Paragraph (c) of this Rule unless the Department has issued a closure notice for the discharge or release. For discharges or releases classified as low risk under this subsection and for which a site assessment pursuant to Rule .0106 (c) and (g) of this Section has been submitted to the Department prior to the effective date of this Rule, the Department may issue a notification under Paragraph (h) of this Rule if the responsible party demonstrates that soil contamination does not exceed contamination cleanup levels established by the Department in the "Groundwater Section Guidelines for the Investigation and Remediation of Soils and Groundwater" (March 1997).

*History Note: Authority G.S. 143-215.2; 143-215.3(a)(1); 143-215.94A; 143-215.94E; 143-215.94(T); 143-215.94(V); 143B-282; 1995 (Reg.Sess. 1996) c.648, s.1; Temporary Adoption Eff. January 2, 1998.*

## SUBCHAPTER 2N - UNDERGROUND STORAGE TANKS

### SECTION .0700 - RELEASE RESPONSE AND CORRECTIVE ACTION FOR UST SYSTEMS CONTAINING PETROLEUM OR HAZARDOUS SUBSTANCES

#### .0701 GENERAL

(a) The "General" provisions contained in 40 CFR 280.60

(Subpart F) have been adopted by reference in accordance with G.S. 150B-14(c); G.S. 150B-21.6.

(b) Any corrective action undertaken in accordance with this Section must meet the requirements and standards specified in 15A NCAC 2L-0106. 2L.

*History Note: Authority G.S. 143-215.3(a)(15); 143B-282(2)(h); 150B-21.6;*

*Eff. January 1, 1991;*

*Temporary Amendment Eff. January 2, 1998.*

#### .0707 CORRECTIVE ACTION PLAN

(a) The provisions for a "Corrective action plan" contained in 40 CFR 280.66 (Subpart F) have been incorporated by reference including any subsequent amendments and editions with the exception of the following Paragraph. This material is available for inspection at the Department of Environment, Health and Natural Resources, Division of ~~Environmental Management~~, Water Quality, Groundwater Section, ~~512 North Salisbury Street,~~ 2728 Capital Boulevard, Raleigh, North Carolina. Copies of 40 CFR Parts 260 to 299 may be obtained from the Superintendent of Documents, Government Printing Office, Washington, D.C., 20402 at a cost of thirty-one dollars (\$31.00).

(b) 40 CFR 280.66(a) has been rewritten to read: "At any point after reviewing the information submitted in compliance with 40 CFR 280.61 through 40 CFR 280.63, the Division may require owners and operators to submit additional information or to develop and submit a corrective action plan for responding to contaminated soils and groundwater. If a plan is required, owners and operators must prepare a plan in accordance with the requirements specified in 15A NCAC 2L-0106, and submit it according to a schedule and format established by the Division. Owners and operators are responsible for submitting a plan that provides for adequate protection of human health and the environment as determined by the Division, and must modify their plan as necessary to meet this standard."

*History Note: Authority G.S. 143-215.3(a)(15); 143B-282(2)(h);*

*Eff. January 1, 1991;*

*Temporary Amendment Eff. January 2, 1998.*

## SUBCHAPTER 2P - LEAKING PETROLEUM UNDERGROUND STORAGE TANK CLEANUP FUNDS

### SECTION .0400 - REIMBURSEMENT PROCEDURE

#### .0402 CLEANUP COSTS

(a) In determining whether costs expended by an owner or operator or landowner are reasonable and necessary, the Division shall consider the following:

- (1) Adequacy and cost-effectiveness of any work performed and technical activity utilized by the owner or operator or landowner in performing

release response, site assessment and corrective action.

- (2) Typical billing rates of engineering, geological, or other environmental consulting firms providing similar services in the State as determined by the Division.
  - (3) Typical rental rates for any necessary equipment as determined by the Division. The amount reimbursed for equipment rental shall not exceed the typical purchase price of such equipment.
  - (4) Typical costs or rates of any other necessary service, labor or expense as determined by the Division.
  - (5) Whether costs expended for corrective action were required by 15A NCAC 2L.
- (b) Expenditures not eligible for reimbursement shall include the following:
- (1) Costs of the removal and disposal of noncommercial underground storage tanks and contents removed on or after July 3, 1991, and of commercial underground storage tanks and contents removed on or after January 1, 1992;
  - (2) Costs of the replacement of any underground storage tank, piping, fitting, or ancillary equipment;
  - (3) Costs incurred in preparation of any proposals or bid by a provider of service for the purpose of soliciting or bidding for the opportunity to perform an environmental investigation or cleanup, even if that provider is ultimately selected to provide the service solicited;
  - (4) Interest on any accounts, loans, etc.;
  - (5) Expenses charged by the owner or operator or landowner in the processing and management of a reimbursement application or subsequent claims;
  - (6) Attorney's fees;
  - (7) Penalties, fees, and fines assessed by any court or agency;
  - (8) Loss of profits, fees, and wages incurred by the owner or operator or landowner;
  - (9) Any other expenses not specifically related to environmental cleanup, or implementation of a cost effective environmental cleanup, or third party bodily injury or property damage.

*History Note:* Authority G.S. 143-215.3; 143-215.94B; 143-215.94D; 143-215.94E; 143-215.94L; 143-215.94T; 143-215.94V; 143B-282;

*Eff. February 1, 1993;*

*Temporary Amendment Eff. January 2, 1998.*

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**Rule-making Agency:** ENR - Coastal Resource Commission

**Rule Citation:** 15A NCAC 7H .0304 - .0305

**Effective Date:** October 22, 1997

**Findings Reviewed and Approved by:** Beecher R. Gray

**Authority for the rule-making:** G.S. 113A-107; 113A-113; 113A-124

**Reason for Proposed Action:** To designate certain previously vegetated areas that lost vegetation in Hurricane Fran as unvegetated beach areas under 15A NCAC 7H .0304 and to establish procedures for determining the setback measurement lines for these areas under 15A NCAC 7H .0305.

**Comment Procedures:** Comments may be submitted in writing 60 days after the date of publication of the issue of the North Carolina Register. Written comments may be submitted to Charles Jones, PO Box 769, Morehead City, NC 28557.

## CHAPTER 7 - COASTAL MANAGEMENT

### SUBCHAPTER 7H - STATE GUIDELINES FOR AREAS OF ENVIRONMENTAL CONCERN

#### SECTION .0300 - OCEAN HAZARD AREAS

##### .0304 AECs WITHIN OCEAN HAZARD AREAS

The ocean hazard system of AECs contains all of the following areas:

- (1) Ocean Erodible Area. This is the area in which there exists a substantial possibility of excessive erosion and significant shoreline fluctuation. The seaward boundary of this area is the mean low water line. The landward extent of this area is determined as follows:
  - (a) a distance landward from the first line of stable natural vegetation to the recession line that would be established by multiplying the long-term annual erosion rate times 60, provided that, where there has been no long-term erosion or the rate is less than two feet per year, this distance shall be set at 120 feet landward from the first line of stable natural vegetation. For the purposes of this Rule, the erosion rates shall be those set forth in tables entitled "Long Term Annual Erosion Rates updated through 1986" and approved by the Coastal Resources Commission on July 29, 1988 (except as such rates may be varied in individual contested cases, declaratory or interpretive rulings). The tables are available without cost from any local permit officer or the Division of Coastal Management; and
  - (b) a distance landward from the recession line

established in Sub-Item (1)(a) of this Rule to the recession line that would be generated by a storm having a one percent chance of being equaled or exceeded in any given year.

- (2) The High Hazard Flood Area. This is the area subject to high velocity waters (including, but not limited to, hurricane wave wash) in a storm having a one percent chance of being equaled or exceeded in any given year, as identified as zone VI-30 on the flood insurance rate maps of the Federal Insurance Administration, U.S. Department of Housing and Urban Development. In the absence of these rate maps, other available base flood elevation data prepared by a federal, state, or other source may be used, provided said data source is approved by the CRC.

- (3) Inlet Hazard Area. The inlet hazard areas are natural-hazard areas that are especially vulnerable to erosion, flooding and other adverse effects of sand, wind, and water because of their proximity to dynamic ocean inlets. This area shall extend landward from the mean low water line a distance sufficient to encompass that area within which the inlet will, based on statistical analysis, migrate, and shall consider such factors as previous inlet territory, structurally weak areas near the inlet (such as an unusually narrow barrier island, an unusually long channel feeding the inlet, or an overwash area), and external influences such as jetties and channelization. The areas identified as suggested Inlet Hazard Areas included in the report entitled INLET HAZARD AREAS, The Final Report and Recommendations to the Coastal Resources Commission, 1978, by Loie J. Priddy and Rick Carraway are hereby designated as Inlet Hazard Areas except that the Cape Fear Inlet Hazard as shown on said map shall not extend northeast of the Baldhead Island marina entrance channel. In all cases, this area shall be an extension of the adjacent ocean erodible area and in no case shall the width of the inlet hazard area be less than the width of the adjacent ocean erodible area. This report is available for inspection at the Department of ~~Environment, Health, Environment~~ and Natural Resources, Division of Coastal Management, 2728 Capital Boulevard, Raleigh, North Carolina. Small scaled photo copies are available at no charge.

- (4) Unvegetated Beach Area. Beach areas within the Ocean Hazard Area where no stable natural vegetation is present may be designated as an unvegetated beach area on either a permanent or temporary basis.

- (a) An area appropriate for permanent designation as an unvegetated beach area This is a dynamic area that is subject to rapid unpredictable landform change from wind

and wave action. The areas in this category shall be designated following detailed studies by the Coastal Resources Commission. These areas shall be designated on maps approved by the Commission and available without cost from any local permit officer or the Division of Coastal Management.

- (b) An area that is suddenly unvegetated as a result of a hurricane or other major storm event may be designated as an unvegetated beach area for a specific period of time. At the expiration of the time specified by the Commission, the area shall return to its pre-storm designation. Areas appropriate for such designation are those in which vegetation has been lost over such a large land area that extrapolation of the vegetation line under the procedure set out in Rule .0305(e) of this Section is inappropriate.

The Commission designates as temporary unvegetated beach areas those oceanfront areas in New Hanover, Pender, Carteret and Onslow Counties in which the vegetation line as shown on aerial photography dated August 8, 9 and 17, 1996, was destroyed as a result of Hurricane Fran on September 5, 1996. This designation shall continue until such time as stable, natural vegetation has reestablished or until the area is permanently designated as an unvegetated beach area pursuant to Sub-item (4)(a) of this Rule.

*History Note: Authority G.S. 113A-107; 113A-113; 113A-124;*

*Eff. September 9, 1977;*

*Amended Eff. December 1, 1993; November 1, 1988; September 1, 1986; December 1, 1985;*

*Temporary Amendment Eff. October 10, 1996;*

*Amended Eff. April 1, 1997;*

*Temporary Amendment Eff. October 10, 1996 Expired;*

*Temporary Amendment Eff. October 22, 1997.*

#### **.0305 GENERAL IDENTIFICATION AND DESCRIPTION OF LANDFORMS**

(a) Ocean Beaches. Ocean beaches are lands consisting of unconsolidated soil materials that extend from the mean low water line landward to a point where either:

- (1) the growth of vegetation occurs, or
- (2) a distinct change in slope or elevation alters the configuration of the landform, whichever is farther landward.

(b) Primary Dunes. Primary dunes are the first mounds of sand located landward of the ocean beaches having an elevation equal to the mean flood level (in a storm having a one percent chance of being equaled or exceeded in any given year) for the area plus six feet. The primary dune extends landward to the lowest elevation in the depression behind that same mound of sand (commonly referred to as the dune



trough).

(c) Frontal Dunes. The frontal dune is deemed to be the first mound of sand located landward of the ocean beach having sufficient vegetation, height, continuity and configuration to offer protective value.

(d) General Identification. For the purpose of public and administrative notice and convenience, each designated minor development permit-letting agency with ocean hazard areas may designate, subject to CRC approval, a readily identifiable land area within which the ocean hazard areas occur. This designated notice area must include all of the land areas defined in Rule .0304 of this Section. Natural or man-made landmarks may be considered in delineating this area.

(e) "Vegetation Line" means the first line of stable natural vegetation, which shall be used as the reference point for measuring oceanfront setbacks. This line represents the boundary between the normal dry-sand beach, which is subject to constant flux due to waves, tides, storms and wind, and the more stable upland areas. It is generally located at or immediately oceanward of the seaward toe of the frontal dune or erosion escarpment. In areas where there is no stable natural vegetation present, this line shall be established by connecting or extending the lines from the nearest adjacent vegetation on either side of the site and by extrapolating (by either on-ground observation or by aerial photographic interpretation) to establish the line. In areas within the boundaries of a large scale beach nourishment or spoil deposition project, the vegetation line that existed before commencement of the project shall be used as the vegetation line for determining oceanfront setbacks after the project is completed. A project shall be considered large scale when:

- (1) it places more than a total volume of 200,000 cubic yards of sand at an average ratio of more than 50 cubic yards of sand per linear foot of shoreline, or
- (2) it is a Hurricane Protection project constructed by the U.S. Army Corps of Engineers.

(f) "Erosion Escarpment" means normal vertical drop in the beach profile caused from high tide or storm tide erosion.

(g) Measurement line means the line from which the oceanfront setback as described in Rule .0306(a) of this Section is measured in the unvegetated beach area of environmental concern as described in Rule .0304(4) of this Section. Procedures for determining the measurement line in areas designated pursuant to Rule .0304(4)(a) of this Section shall be adopted by the Commission for each area where such a line is designated pursuant to the provisions of G.S. 150B. These procedures shall be available from any local permit officer or the Division of Coastal Management. In areas designated pursuant to Rule .0304(4)(b) of this Section, the Division of Coastal Management shall establish a measurement line that approximates the location at which the vegetation line is expected to reestablish by:

- (1) determining the distance the vegetation line receded at the closest vegetated site to the proposed development site; and

- (2) locating the line of stable natural vegetation on the most current pre-storm aerial photography of the proposed development site and moving this line landward the distance determined in Subparagraph (g)(1) of this Rule.

The measurement line established pursuant to this process shall in every case be located landward of the average width of the beach as determined from the most current pre-storm aerial photography.

*History Note: Authority G.S. 113A-107; 113A-113(b)(6); 113A-124;*

*Eff. September 9, 1977;*

*Amended Eff. December 1, 1992; September 1, 1986; December 1, 1985; February 2, 1981;*

*Temporary Amendment Eff. October 10, 1996;*

*Amended Eff. January 1, 1997;*

*Temporary Amendment Eff. October 10, 1996 Expired;*

*Temporary Amendment Eff. October 22, 1997.*

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**Rule-making Agency:** *North Carolina Wildlife Resources Commission*

**Rule Citation:** *15A NCAC 10F .0355*

**Effective Date:** *October 1, 1997*

**Findings Reviewed by Julian Mann:** *Approved*

**Authority for the rule-making:** *G.S. 75A-3; 15A-15*

**Reason for Proposed Action:** *To protect public safety by regulating vessel speeds in congested areas pursuant to authority conveyed by S.L. 1997-0403.*

**Comment Procedures:** *The North Carolina Wildlife Resources Commission has the authority to adopt temporary rules pursuant to S.L. 1997-0403. This temporary rule is adopted following the public hearing and public comment period established for permanent rule adoption. A public hearing was held on July 18, 1997 for the permanent rule and the record of hearing for public comment was closed on August 1, 1997. The submission for permanent rule is on file with the Rules Review Commission.*

## CHAPTER 10 - WILDLIFE RESOURCES AND WATER SAFETY

### SUBCHAPTER 10F - MOTORBOATS AND WATER SAFETY

#### SECTION .0300 - LOCAL WATER SAFETY REGULATIONS

**.0355 PERQUIMANS COUNTY**

(a) Regulated Areas. This Rule applies to the following waters:

- (1) Perquimans River: the canals of Holiday Island;
- (2) Perquimans River: within 50 yards of the Hertford City Boat Ramp;
- (3) Perquimans River: within 75 yards of the Perquimans River Bridge on U.S. 17 Business also known as the Hertford S-Shaped ~~Bridge~~ Bridge;
- (4) Yeopim River: within 75 yards of the Albemarle Plantation Marina Piers.

(b) Speed Limit. No person shall operate any motorboat or vessel at greater than no-wake speed within the regulated area described in Paragraph (a) of this Rule.

(c) Placement and Maintenance of Markers. The Board of Commissioners of Perquimans County is designated a suitable agency for placement and maintenance of markers implementing this Rule.

*History Note: Authority G.S. 75A-3; 75A-15;*

*Eff. November 1, 1998;*

*Amended Eff. October 1, 1992;*

*Temporary Amendment Eff. October 1, 1997.*

**TITLE 19A - DEPARTMENT OF TRANSPORTATION**

**Rule-making Agency:** *Department of Transportation - Division of Motor Vehicles*

**Rule Citation:** *19A NCAC 03D .0525*

**Effective Date:** *November 1, 1997*

**Findings Reviewed by Beecher Gray:** *Determined that the agency did not meet criteria for the temporary rule. Agency resubmitted rule for entry into the code pursuant to G.S. 150B-21.1(b).*

**Authority for the rule-making:** *G.S. 20-2; 20-39; 20-54; 20-183.2; 20-183.6A*

**Reason for Proposed Action:** *The Division of Motor Vehicles currently tracks emission inspections through computer data entered by the inspection mechanics. The proposed rule will require all emissions inspection stations to purchase bar-code scanners which will correctly match vehicle identification numbers with bar codes on vehicle registration cards.*

**Comment Procedures:** *Any interested person may submit written comments on the proposed rule by mailing the comments to Emily Lee, Department of Transportation, PO Box 25201, Raleigh, NC 27611, within 30 days after the notice of text is published.*

**CHAPTER 3 - DIVISION OF MOTOR VEHICLES**

**SUBCHAPTER 3D - ENFORCEMENT SECTION**

**SECTION .0500 - GENERAL INFORMATION REGARDING SAFETY INSPECTION OF MOTOR VEHICLES**

**.0525 PRE-INSPECTION REQUIREMENTS**

Prior to performing an inspection, the inspection mechanic shall:

- (1) Have all occupants leave the vehicle.
- (2) Require the operator to produce the current registration card to the vehicle.
- (3) Print or write legibly, use a ball point pen, and list the license plate number, serial number, mileage, number of cylinders, make, year and other required information for the vehicle on the Receipt and Statement (Form No. SI-15) if the inspection is performed by the safety equipment inspection mechanic. If the vehicle does not have a license plate, "none" shall be indicated. If inspected for a dealership, the dealer sticker number shall be indicated.
- (4) Enter all information if the inspection is performed by the safety equipment exhaust emission inspection mechanic as requested by the analyzer. All vehicle identification numbers entered into the NCAS-90 analyzer shall be entered through a "one dimensional" (ID) bar-code scanner capable of reading vehicle identification numbers and information printed on vehicle registration cards. A station's failure to maintain an operating bar-code scanner shall result in DMV suspending a station's inspection operations until the station has a properly functioning bar-code scanner. In the event the vehicle identification number is not readable by the bar-code scanner or is not printed on the registration card, the station shall enter the information by scanning the public vehicle identification number through the vehicle windshield or off of the driver side door or door post. If the vehicle identification number cannot be scanned through any of the methods listed in this Rule, it may be manually entered by entering the vehicle identification number correctly twice through manual keyboard entry. Stations must achieve a match rate to the registration data base of 95% or greater. Failure to maintain a 95% match rate for more than three months of a calendar year shall result in a Type II penalty.

*History Note: Authority G.S. 20-2; 20-39; 20-183.2; 20-183.6A;*

*Eff. October 1, 1994;*

*Codifier determined that agency did not meet criteria for temporary rule Eff. September 24, 1997;*



Temporary Amendment Eff. November 1, 1997.

**TITLE 21 - OCCUPATIONAL LICENSING  
BOARDS**

**CHAPTER 26 - NORTH CAROLINA BOARD OF  
LANDSCAPE ARCHITECTS**

**Rule-making Agency:** *Licensing Board of Landscape Architects*

**Rule Citation:** *21 NCAC 26 .0104 - .0105, .0302, .0506 - .0509*

**Effective Date:** *October 1, 1997*

**Findings Reviewed and Approved by:** *Beecher R. Gray*

**Authority for the rule-making:** *G.S. 89A*

**Reason for Proposed Action:** *Changes mandated by a rewritten G.S. 89A. Changes made to adjust to revised N.C.G.S. 89A enacted by 1997 Session of the North Carolina General Assembly.*

**Comment Procedures:** *Comments may be mailed to the North Carolina Board of Landscape Architects, P.O. Box 41225, Raleigh, NC 27629.*

**SECTION .0100 - STATUTORY AND  
ADMINISTRATIVE PROVISIONS**

**.0104 FORMS**

Forms used by the board, and available from the board office upon request, include the following:

- (1) Application for Registration as Landscape Architect,
- (2) Application for Corporate Certificate of Registration,
- ~~(3) Application for Temporary Permit,~~
- ~~(3)~~ ~~(4)~~ Application for Renewal of Certificate,
- ~~(4)~~ ~~(5)~~ Application for Renewal of Corporate Certificate.

**History Note:** *Authority G.S. 89A-3(c); 150B-11(1); Eff. February 1, 1976; Readopted Eff. September 30, 1977; Temporary Amendment Eff. October 1, 1997.*

**.0105 FEES**

- (a) Application fees shall be one hundred dollars (\$100.00).
- ~~(b) The Certificate of Permit for a temporary permit shall be one hundred fifty dollars (\$150.00);~~
- ~~(b)(c)~~ Examination fees shall be four hundred fifty dollars

(\$450.00) for a complete examination, and shall be paid prior to the examination.

~~(c)(d)~~ Fees for portions of examinations will be based on the actual charges to the board for procuring, administering and grading the portion of the exam. The fees shall be paid prior to the examination.

~~(d)(e)~~ The fee for license by reciprocity shall be one hundred fifty dollars (\$150.00).

~~(e)(f)~~ The fee for a corporate certificate of registration shall be two hundred dollars (\$200.00).

~~(f)(g)~~ The fee for the annual renewal of any certificate of registration shall be one hundred dollars (\$100.00).

~~(g)(h)~~ Annual renewal fees received after July 1 of each year shall be subject to the assessment of a late payment penalty according to the following schedule:

- (1) After July 1 - ten dollars (\$10.00);
- (2) After September 1 - fifteen dollars (\$15.00);
- (3) After October 1 - twenty dollars (\$20.00);
- (4) After November 1 - twenty five dollars (\$25.00);
- (5) After December 1 - thirty dollars (\$30.00);
- (6) After January 1 - thirty five dollars (\$35.00);
- (7) After February 1 - forty dollars (\$40.00);
- (8) After March 1 - forty five dollars (\$45.00);
- (9) After April 1 - fifty dollars (\$50.00).

~~(h)(i)~~ The fee for re-issue of a lost or damaged certificate or permit is ten dollars (\$10.00).

**History Note:** *Authority G.S. 89A-3(c); 89A-6; Eff. February 1, 1976; Readopted Eff. September 30, 1977; Amended Eff. December 1, 1994; June 1, 1991; April 1, 1990; July 1, 1989; Temporary Amendment Eff. October 1, 1997.*

**SECTION .0300 - EXAMINATION AND  
LICENSING PROCEDURES**

**.0302 TEMPORARY PERMIT**

~~The board may issue temporary permits pending examination. The board will consider the education, training and experience of the applicant. No temporary permit will be issued or renewed for more than one year or two examination dates, whichever is longer.~~

**History Note:** *Authority G.S. 89A-3(c); 89A-4(c); Eff. February 1, 1976; Readopted Eff. September 30, 1977; Amended Eff. October 1, 1988; Temporary Repealed Eff. October 1, 1997.*

**SECTION .0500 - BOARD DISCIPLINARY  
PROCEDURES**

**.0506 IMPROPER PRACTICE BY A REGISTRANT**

~~(a) Preferring Charges. Any person who believes that any licensed professional Landscape Architect or firm holding a~~

certificate of authorization is in violation of the provisions of G.S. 89A or the rules in this Chapter may prefer charges against that person or firm by setting forth in writing those charges and swearing to their authenticity. The charges are to be filed at the Board's office in Raleigh, North Carolina.

(b) Preliminary Review:

- (1) Upon receipt of a properly filed charge, an investigation shall be initiated.
- (2) A written notice and explanation of the charge shall be forwarded to the person or firm against whom the charge is made and a response is requested of the person or firm so charged to show compliance with all lawful requirements for retention of the license. Notice of the charge and of the alleged facts or alleged conduct shall be given personally or by certified mail, return receipt requested.
- (3) In the discretion of the secretary, a field investigation may be performed.
- (4) After preliminary evidence has been obtained, the matter shall be referred to the Board's review committee which is made up of the following individuals:
  - (A) one member of the Board,
  - (B) the legal counsel of the Board, and
  - (C) the secretary of the Board.
- (5) Upon review of the available evidence, the review committee shall present to the Board a written recommendation that:
  - (A) that the charge be dismissed as unfounded or trivial;
  - (B) when the charge is admitted as true, the Board accept the admission of guilt by the person charged and order him not to commit in the future the specific act or acts admitted by him and, also, not to violate any of the acts of misconduct specified in the law at any time in the future; or
  - (C) the charge, whether admitted or denied, be presented to the full Board for a hearing and determination by the Board on the merits of the charge in accordance with the substantive and procedural requirements of the provisions of Rule .0506 of this Chapter and the provisions of G.S. 150B.

(c) Board Decision. Notice of the decision by the Board on recommendations of the review committee shall be given to the party against whom the charges have been brought and the party submitting the charge.

(d) Settlement Conference. When the Board issues a citation for hearing or notice of a decision without hearing, the registrant may request in writing a settlement conference to pursue resolution of the issue(s) through informal procedures. If after the completion of a settlement conference the registrant and Board's settlement committee do not agree to a resolution of the dispute for the full Board's consideration, the original administrative proceeding shall commence. During the course of the settlement conference,

no sworn testimony shall be taken nor shall any witnesses be cross-examined.

- (1) The Board's settlement committee shall be made up of the following individuals:
  - (A) the member of the Board who served on the review committee,
  - (B) one public member from the Board,
  - (C) the legal counsel of the Board, and
  - (D) the secretary of the Board.
- (2) Upon review of the available evidence, the settlement committee shall present to the Board a written recommendation that:
  - (A) the charge be dismissed as unfounded or trivial;
  - (B) when the charge is admitted as true, the Board accept the admission of guilt by the person charged and order the person not to commit in the future the specific act or acts admitted and, also, not to violate any of the acts of misconduct specified in the law at any time in the future; or
  - (C) the charge, whether admitted or denied, be presented to the full Board for a hearing and determination by the Board on the merits of the charge in accordance with the substantive and procedural requirements of the provisions of Rule .0506 of this Chapter and the provisions of G.S. 150B.

*History Note: Authority G.S. 89A-3-(c); 89A-3A; Temporary Adoption Eff. October 1, 1997.*

**.0507 GENERAL RULES**

Whenever the Board, by its official action, acts in such a way as to: affect the rights, duties, or privileges of a specific identified party, that party, upon request, will be given an administrative hearing.

*History Note: Authority G.S. 89A-3-(c); 89A-3A; Temporary Adoption Eff. October 1, 1997.*

**.0508 OPPORTUNITY FOR LICENSEE OR APPLICANT TO HAVE HEARING**

Every licensee or applicant for a license shall be afforded notice and an opportunity to be heard on any action, the effect of which would be:

- (1) to deny permission to take an examination for licensing for which application has been duly made,
- (2) to deny a license based on comity,
- (3) to deny a license after an applicant has taken and passed an examination,
- (4) to require re-examination for licensing,
- (5) to withhold the renewal of a license for any cause other than failure to pay a statutory renewal fee,
- (6) to suspend a license,
- (7) to revoke a license,
- (8) to impose a civil penalty, or

- (9) to issue a reprimand.

*History Note: Authority G.S. 89A-3-(c); 89A-3A;  
Temporary Adoption Eff. October 1, 1997.*

**.0509 CONDUCT OF CONTESTED CASE**

**(a) Failure to Appear:**

- (1) If a party served with notice requests a hearing within the time required and fails to appear without having notified the Board, and no continuance or adjournment is ordered, the party shall be considered to have waived his right to appear at the hearing and the Board may proceed with the hearing in the party's absence.
- (2) If the absent party is the only party other than the Board, the Board may proceed with the hearing and make its decision in the party's absence.
- (3) Continuances and adjournments shall be granted to a party only in compelling circumstances such as illness or other undue hardships that prevent the party from appearing.
- (4) If a hearing is conducted or a decision reached in the absence of a party, he may petition the Board for a reopening of the case. Petitions shall not be granted, except when petitioner can show that the reasons for his failure to appear were justifiable and that fairness requires reopening of the case. The decision made by the Board shall be in writing. A copy shall be sent to the petitioner and made a part of the record of the contested case.

(b) Simplification of Issues. The parties to a contested case may agree in advance to simplify the hearing by eliminating issues to be contested at the hearing, accepting the validity of certain proposed evidence, accepting the findings in some other case with relevance to the case at hand, or agreeing to such other matters as may expedite the hearing.

**(c) Subpoenas:**

- (1) The secretary may issue subpoenas in the Board's name.
- (2) Subpoenas requiring the attendance of witnesses, or those to produce documents, evidence or things, will be issued by the secretary within five business days of the receipt of request from a party to the case for such subpoena.

- (3) Any person receiving a subpoena from the Board may object thereto by filing a written objection to the subpoena with the Board. Such objection must include a concise, but complete statement of reasons why the subpoena should be revoked or modified. These reasons may include lack of relevancy of the evidence requested, lack of particularity in the description of the evidence sought, or any other reasons sufficient in law for holding the subpoena invalid, such as that the evidence is privileged, that appearance or production would be so disruptive as to be unreasonable in light of the significance of the evidence sought, or other undue hardships.
- (4) The objecting witness shall serve his objection on the party who requested the subpoena as soon as he files the objection with the Board. The party requesting the subpoena, within 30 days of receipt of the objection, may file a written response to the objection. The response shall be served in like manner as the objection.
- (5) After receipt of the objection and response thereto, if any, the Board shall issue a notice to the party who requested and the party challenging the subpoena, and may notify all other parties of an open hearing, to be scheduled as soon as practicable, at which time evidence and testimony may be presented limited to the questions raised by the objection and response, if any.
- (6) Promptly after the close of such hearing, the Board shall rule on the challenge and issue a written decision. A copy of this decision shall be issued to all parties and made a part of the record.

*History Note: Authority G.S. 89A-3-(c); 89A-3A;  
Temporary Adoption Eff. October 1, 1997.*

*This Section contains the agenda for the next meeting of the Rules Review Commission on Thursday, October 16, 1997, 10:00 a.m., at 1307 Glenwood Ave., Assembly Room, Raleigh, NC. Anyone wishing to submit written comment on any rule before the Commission should submit those comments to the RRC staff, the agency, and the individual Commissioners by Monday, October 13, 1997, at 5:00 p.m. Specific instructions and addresses may be obtained from the Rules Review Commission at 919-733-2721. Anyone wishing to address the Commission should notify the RRC staff and the agency at least 24 hours prior to the meeting.*

**RULES REVIEW COMMISSION MEMBERS**

**Appointed by Senate**  
 Philip O. Redwine - Chairman  
 Jim Funderburke  
 Vernice B. Howard  
 Teresa L. Smallwood  
 David Twiddy

**Appointed by House**  
 Paul Powell - Vice Chairman  
 Mark Garside  
 Steve Rader  
 George Robinson  
 Anita White

**RULES REVIEW COMMISSION MEETING DATES**

October 16, 1997  
 November 20, 1997

December 18, 1997

**MEETING DATE: OCTOBER 16, 1997**

**LOG OF FILINGS**

**RULES SUBMITTED: AUGUST 20, 1997 THROUGH SEPTEMBER 20, 1997**

AGENCY/DIVISION	RULE NAME	RULE	ACTION
<b>DHHS/DIVISION OF FACILITY SERVICES</b>			
	Definitions	10 NCAC 3B .1001	Adopt
	Investigation and Reporting	10 NCAC 3B .1002	Adopt
	Medical Orders	10 NCAC 3C .3707	Amend
	Definitions	10 NCAC 3D .2001	Adopt
	Level I Trauma	10 NCAC 3D .2101	Adopt
	Level II Trauma	10 NCAC 3D .2102	Adopt
	Level III Trauma	10 NCAC 3D .2103	Adopt
	Submission of Request	10 NCAC 3D .2104	Adopt
	Initial Designation	10 NCAC 3D .2105	Adopt
	Renewal Designation	10 NCAC 3D .2106	Adopt
	Denial, Probation, Voluntary Withdrwl	10 NCAC 3D .2201	Adopt
	Procedures	10 NCAC 3D .2202	Adopt
	Misrepresentation	10 NCAC 3D .2203	Adopt
	State Trauma System Plan	10 NCAC 3D .2301	Adopt
	Regional Trauma System Plan	10 NCAC 3D .2302	Adopt
	Regional Trauma System Policy	10 NCAC 3D .2303	Adopt
	Source of Forms	10 NCAC 3D .2401	Adopt
<b>DHHS/DIVISION OF MEDICAL ASSISTANCE</b>			
	Medicaid Criteria/Continued Acute Stay	10 NCAC 26B .0113	Adopt

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**RULES REVIEW COMMISSION**

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**DENR/SOIL & WATER CONSERVATION COMMISSION**

Best Management Practices	15A NCAC 6E .0104	Amend
Cost Share	15A NCAC 6E .0105	Amend
Technical Assistance Funds	15A NCAC 6E .0106	Amend
Cost Share Agreement	15A NCAC 6E .0107	Amend
District Program Operation	15A NCAC 6E .0108	Amend

**DENR/COASTAL RESOURCES COMMISSION**

AECs within Ocean Hazard Areas	15A NCAC 7H .0304	Amend
General Identification	15A NCAC 7H .0305	Amend

**DENR/WILDLIFE RESOURCES COMMISSION**

Perquimans County	15A NCAC 10F .0355	Amend
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**DENR/COMMISSION FOR HEALTH SERVICES**

Permits	15A NCAC 18A .1937	Amend
Responsibilities	15A NCAC 18A .1938	Amend
Non-Ground Absorption Sewage	15A NCAC 18A .1958	Amend
Maintenance of Sewage Systems	15A NCAC 18A .1961	Amend
Reportable Diseases	15A NCAC 19A .0101	Amend
Method of Reporting	15A NCAC 19A .0102	Amend
Control Measures - General	15A NCAC 19A .0201	Amend
Control Measures - Hepatitis B	15A NCAC 19A .0203	Amend
Control Measures - Tuberculosis	15A NCAC 19A .0205	Amend
Determination of Financial Eligibility	15A NCAC 24A .0202	Amend

**STATE BOARD OF EDUCATION**

Certificate Renewal	16 NCAC 6C .0307	Amend
Graduation Requirements	16 NCAC 6D .0103	Amend
Testing Requirements	16 NCAC 6D .0301	Amend
Accountability Coordinator	16 NCAC 6D .0303	Amend
End of Course Tests	16 NCAC 6D .0305	Adopt
Testing Code of Ethics	16 NCAC 6D .0306	Adopt
Dispute Resolution Process	16 NCAC 6G .0304	Adopt
Annual Performance Standards	16 NCAC 6G .0305	Adopt
Identification	16 NCAC 6G .0306	Adopt
Assistance Teams	16 NCAC 6G .0307	Adopt
Due Process Protections	16 NCAC 6G .0308	Adopt
Suspension of Powers	16 NCAC 6G .0309	Adopt
Definitions	16 NCAC 6G .0401	Repeal
Improvement Plans	16 NCAC 6G .0402	Repeal
Caretaker Administrators	16 NCAC 6G .0403	Repeal
Termination	16 NCAC 6G .0404	Repeal

**TRANSPORTATION/DIVISION OF HIGHWAYS**

Railroad Grade Crossings	19A NCAC 2B .0242	Adopt
NC Route Numbers	19A NCAC 2B .0303	Amend

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**RULES REVIEW OBJECTIONS****COMMERCE****Credit Union Division**

4 NCAC 6C .0407 - Business Loans  
Agency Revised Rule

RRC Objection	08/21/97
Obj. Removed	09/18/97

**DENTAL EXAMINERS**

21 NCAC 16I .0001 - Applications

RRC Objection 09/18/97

21 NCAC 16M .0003 - Primary Source Verification Fee

RRC Objection 09/18/97

**ENVIRONMENT, HEALTH, AND NATURAL RESOURCES**

**Coastal Resources Commission**

15A NCAC 7H .0208 - Use Standards

RRC Objection 08/21/97

Agency Revised Rule

Obj. Removed 09/18/97

15A NCAC 7H .1204 - General Conditions

RRC Objection 08/21/97

Agency Revised Rule

Obj. Removed 09/18/97

**Environmental Management**

15A NCAC 2H .0225 - Conditions for Issuing General Permits

RRC Objection 07/17/97

Agency Revised Rule

Obj. Removed 08/21/97

**Water Pollution Controls Systems**

15A NCAC 8F .0201 - Duties and Requirements of Owners

RRC Objection 09/18/97

15A NCAC 8F .0203 - Duties and Requirements of an Operator in Charge

RRC Objection 09/18/97

**N.C. HOUSING FINANCE AGENCY**

24 NCAC 1P .0103 - Types of Assistance

RRC Objection 07/17/97

Agency Revised Rule

Obj. Removed 08/21/97

**HUMAN RESOURCES**

**Facility Services**

10 NCAC 3R .3033 - Open Heart Surgery Services Need Determinations (Rev. Cat. H)

RRC Objection 01/16/97

Obj. Cont'd 02/20/97

Obj. Cont'd 03/20/97

Obj. Cont'd 06/19/97

Obj. Cont'd 07/17/97

Agency Revised Rule

Obj. Removed 08/21/97

**Medical Assistance**

10 NCAC 26B .0113 - NC Medicaid Criteria/Cont'd Acute Stay/Inpatient Psych. Facility

Rule Withdrawn by Agency

09/18/97

**Social Services Commission**

10 NCAC 42J .0005 - Funding for Medical Services

RRC Objection 08/21/97

Agency Revised Rule

Obj. Removed 09/18/97

**TRANSPORTATION**

**Division of Highways**

19A NCAC 2B .0164 - Use of Right of Way Consultants

RRC Objection 07/17/97

Agency Revised Rule

Obj. Removed 08/21/97

*This Section contains the full text of some of the more significant Administrative Law Judge decisions along with an index to all recent contested cases decisions which are filed under North Carolina's Administrative Procedure Act. Copies of the decisions listed in the index and not published are available upon request for a minimal charge by contacting the Office of Administrative Hearings, (919) 733-2698.*

**OFFICE OF ADMINISTRATIVE HEARINGS**

*Chief Administrative Law Judge*  
JULIAN MANN, III

*Senior Administrative Law Judge*  
FRED G. MORRISON JR.

**ADMINISTRATIVE LAW JUDGES**

Brenda B. Becton  
Sammie Chess Jr.  
Beecher R. Gray

Meg Scott Phipps  
Robert Roosevelt Reilly Jr.  
Dolores O. Smith

<u>AGENCY</u>	<u>CASE NUMBER</u>	<u>ALJ</u>	<u>DATE OF DECISION</u>	<u>PUBLISHED DECISION REGISTER CITATION</u>
<b>ADMINISTRATION</b>				
E. Edward Gambill v. Department of Administration	97 DOA 0364	Reilly	09/10/97	
<b>ALCOHOLIC BEVERAGE CONTROL COMMISSION</b>				
Michael's Mini Mart v. Alcoholic Beverage Control Commission	92 ABC 1601	Gray	08/18/97	
Everette Craig Hornbuckle v. Alcoholic Beverage Control Commission	93 ABC 0987	Gray	08/18/97	
Saleh Ahmed Ali Futhah v. Alcoholic Beverage Control Commission	94 ABC 0264	Gray	08/18/97	
Carolyn T. Ray v. Alcoholic Beverage Control Commission	95 ABC 0429	Gray	09/23/97	
Alcoholic Beverage Control Commission v. Fast Fare, Inc.	96 ABC 0483	Morrison	06/18/97	
Alcoholic Beverage Control Commission v. Mendoza Enterprises, Inc.	96 ABC 1196	Gray	08/26/97	
Alcoholic Beverage Control Commission v. Paradise Landing, Inc.	97 ABC 0031	Gray	06/13/97	
OFFISS, Inc. v. Alcoholic Beverage Control Commission	97 ABC 0118	Gray	09/17/97	
Alcoholic Beverage Control Commission v. Altaf Hussain	97 ABC 0312	Mann	07/29/97	
Alcoholic Beverage Control Commission v. Robert Johnson	97 ABC 0321	Gray	08/25/97	
Alcoholic Beverage Control Commission v. Masonboro County Store, Inc.	97 ABC 0432	Reilly	09/09/97	
Daniel Gary Ledbetter v. Alcoholic Beverage Control Commission	97 ABC 0443	Gray	07/08/97	
Alcoholic Beverage Control Comm. v. Percy Daniel Bowen	97 ABC 0495	Morrison	09/24/97	
Alcoholic Beverage Control Commission v. Bridgette Dee Williams	97 ABC 0576	Phipps	09/04/97	
Alcoholic Beverage Control Commission v. Westside Tavern, Inc.	97 ABC 0586	Phipps	09/17/97	
Alcoholic Beverage Control Commission v. Grove Park Inn Resort, Inc.	97 ABC 0706	Morrison	09/15/97	12:07 NCR 609
<b>CORRECTION</b>				
David M. Boone v. Correction, Div. of Prison Admin. Remedy Procedure	97 DOC 0534	Morrison	06/16/97	
<b>CRIME CONTROL AND PUBLIC SAFETY</b>				
Della Sherrod v. Crime Victims Compensation Commission	96 CPS 0300	Chess	07/18/97	
Mary A. Kearney v. CPS, Victims Compensation Commission	96 CPS 2033	Becton	09/26/97	
Beverly McLaughlin v. Crime Victims Compensation Commission	97 CPS 0170	Phipps	08/29/97	
Malcolm W. Fields v. Crime Victims Compensation Commission	97 CPS 0360	Chess	09/12/97	
Rodney P. Hodge v. Crime Victims Compensation Commission	97 CPS 0449	Reilly	07/01/97	
Billy Steen v. Crime Victims Compensation Commission	97 CPS 0472	Morrison	07/23/97	
Clifford R. Pulley v. Crime Victims Compensation Commission	97 CPS 0523	Gray	08/06/97	
<b>ENVIRONMENT, HEALTH, AND NATURAL RESOURCES</b>				
Linda Collie v. Lenoir County Health Department	96 EHR 0264	Becton	07/16/97	
Leroy Anderson v. County of Moore Department of Health	96 EHR 1969	Morrison	07/15/97	12:03 NCR 223
E.H. Garner v. New Hanover Health Department	96 EHR 1972	Gray	08/07/97	
Robert E. Cahoon v. Carteret County Health Department	97 EHR 0878	Becton	09/30/97	

<u>AGENCY</u>	<u>CASE NUMBER</u>	<u>ALJ</u>	<u>DATE OF DECISION</u>	<u>PUBLISHED DECISION REGISTER CITATION</u>
Peter D. McDowell, Sr. v. New Hanover Health Department	96 EHR 2075	Gray	08/07/97	
Riggings Homeowners Assoc., Inc. v. Environment, Health, & Natural Res.	97 EHR 0263	Reilly	08/13/97	
John Ronald Taylor v. Environment, Health, & Natural Resources	97 EHR 0275	Reilly	06/09/97	
Rick Parker v. Pitt County Health Dept./Mr. Ernie Nichols	97 EHR 0470	Phipps	07/01/97	
James R. Melvin v. Environment and Natural Resources	97 EHR 0682	Phipps	09/23/97	
<b>Environmental Management</b>				
Henry G. Dail, Dail Brothers v. EHNR, Environmental Management	96 EHR 2104	Gray	08/27/97	
<b>Maternal and Child Health</b>				
Evan's Mini Mart v. EHNR, Maternal & Child Health, Nutrition Svcs Sec.	97 EHR 0599	Phipps	07/14/97	
<b>Solid Waste Management</b>				
Loie J. Priddy v. Division of Solid Waste Management, EHNR	96 EHR 1838	Morrison	06/20/97	12:02 NCR 103
<b>Water Quality</b>				
Castle Hayne Steering Committee v. EHNR, Division of Water Quality and New Hanover County Water and Sewer District	96 EHR 1731	Mann	06/30/97	
RAYCO Utilities, Inc., Briarwood WWTP v. EHNR, Div. of Water Quality	97 EHR 0018	Chess	09/12/97	
<b>HUMAN RESOURCES</b>				
John & Veronica Spearman v. Department of Human Resources	96 DHR 1543	Chess	09/12/97	
New Beginnings Christian Academy v. Department of Human Resources	96 DHR 1925	Reilly	08/22/97	
Cindy G. Geho v. Office of Administrative Hearings, R. Marcus Lodge	97 DHR 0286	Chess	07/23/97	
Helen Wyman v. Department of Human Resources	97 DHR 0407	Reilly	08/08/97	
DeRothea G. Williams d/b/a Dee Williams & Company, a proprietorship v. Buncombe County Partnership for Children, Inc., a NC Nonprofit Corp.; NC Department of Human Resources [Division of Child Development]; NC Department of Environment, Health, and Natural Resources [Division of Maternal and Child Health]	97 DHR 0424	Morrison	09/22/97	
Linda Rouse Sharp v. Department of Human Resources	97 DHR 0610	Mann	08/28/97	
Ocee Gibson v. Department of Human Resources	97 DHR 0658	Reilly	07/22/97	
Rita Faircloth v. Department of Human Resources	97 DHR 0900	Reilly	08/15/97	
<b>Division of Child Development</b>				
New Hanover Cty. Comm. Action v. DHR, Division of Child Development	97 DHR 0921	Phipps	09/10/97	
Cindy G. Geho v. Human Resources, Division of Child Development	97 DHR 0966	Phipps	08/29/97	
<b>Division of Facility Services</b>				
Ava McKinney v. DHR, Division of Facility Services	96 DHR 2061	Chess	07/08/97	
Mercy Egbuleonu v. DHR, Facility Svcs, Health Care Personnel Reg. Sec.	97 DHR 0172	Becton	07/16/97	
Mercy Egbuleonu v. Human Resources, Division of Facility Services	97 DHR 0450	Gray	09/02/97	
Kizzie Cooper v. DHR, Facility Svcs, Health Care Personnel Registry Sec.	97 DHR 0459	Phipps	06/09/97	
Maggie J. Barnhill v. DHR, Facility Svcs, Health Care Pers. Reg. Sec.	97 DHR 0465	Gray	07/30/97	
Emma Faison v. DHR, Division of Facility Services	97 DHR 0471	Gray	07/15/97	
Patricia Addison v. DHR, Facility Svcs, Health Care Personnel Reg. Sec.	97 DHR 0521	Mann	07/25/97	
Selena Louise Holley v. DHR, Facility Svcs, Health Care Persl. Reg. Sec.	97 DHR 0524	Phipps	08/28/97	
Claudia K. Thomerson v. DHR, Facility Svcs, Health Care Pers. Reg. Sec.	97 DHR 0551	Chess	07/15/97	
Michelle R. Griffin v. DHR, Facility Svcs, Health Care Pers. Reg. Sec.	97 DHR 0559	Gray	07/30/97	
Deborah L. McBurnie v. DHR, Facility Svcs, Health Care Pers. Reg. Sec.	97 DHR 0608	Chess	09/02/97	
Kelly M. Poole v. DHR, Facility Svcs, Health Care Pers. Reg. Sec.	97 DHR 0629	Chess	09/02/97	
Debbie Williams v. DHR, Fac. Svcs, Health Care Pers. Reg. Sec.	97 DHR 0630	Gray	10/01/97	
Therese Victoria Wilson v. DHR, Fac. Svcs, Health Care Pers. Reg. Sec.	97 DHR 0632	Phipps	08/25/97	
Notisha Utley v. DHR, Fac. Svcs, Health Care Pers. Reg. Sec.	97 DHR 0646	Phipps	09/26/97	
Helen T. Shokoti v. Human Resources, Division of Facility Services	97 DHR 0653	Chess	08/20/97	
Jeri L. Anderson v. Human Resources, Division of Facility Services	97 DHR 0659	Gray	08/19/97	
Susie A. Milsap v. DHR, Facility Svcs, Health Care Pers. Reg. Sec.	97 DHR 0667	Phipps	08/25/97	
Glenda Christine Taylor v. DHR, Facility Svcs, Health Care Pers. Reg. Sec.	97 DHR 0681	Gray	08/29/97	
Angela D. Johnson v. DHR, Facility Svcs, Health Care Pers. Reg. Sec.	97 DHR 0723	Chess	08/06/97	
Cressie D. Mears v. DHR, Division of Facility Services	97 DHR 0793	Chess	08/21/97	
Marie Emma Wimbush v. DHR, Facility Svcs, Health Care Pers. Reg. Sec.	97 DHR 0797	Phipps	08/25/97	
Tamara Green v. DHR, Fac. Svcs, Health Care Pers. Reg. Sec.	97 DHR 0824	Becton	09/29/97	
Jean Rossman v. DHR, Facility Svcs, Health Care Pers. Reg. Sec.	97 DHR 0908	Smith	09/02/97	
Lorena Barbour v. DHR, Facility Svcs, Health Care Pers. Reg. Sec.	97 DHR 0999	Phipps	09/11/97	
<b>Certificate of Need Section</b>				
Carolina Imaging, Inc./Fayetteville v. DHR, Facility Svcs, Cert/Need Sec. and Cumberland Cty Hospital System, Inc., d/b/a Cape Fear Valley Med. Ctr.	96 DHR 1570	Phipps	06/24/97	12:02 NCR 95



# CONTESTED CASE DECISIONS

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<i>Group Licensure Section</i>				
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<i>Child Support Enforcement Section</i>				
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Michael R. Bryant v. Department of Human Resources	96 CRA 1252	Phipps	08/11/97	
David Lee Chamblee Jr. v. Department of Human Resources	96 CRA 1281	Morrison	06/16/97	
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Evalina R. Oxendine v. Department of Human Resources	96 CRA 1825	Gray	09/10/97	
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Ander L. Garfield v. Department of Human Resources	96 CSE 1480* <sup>3</sup>	Morrison	07/15/97	
Edward Stuteville v. Department of Human Resources	96 CSE 1508* <sup>13</sup>	Mann	08/13/97	
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*The North Carolina Administrative Code (NCAC) has four major subdivisions of rules. Two of these, titles and chapters, are mandatory. The major subdivision of the NCAC is the title. Each major department in the North Carolina executive branch of government has been assigned a title number. Titles are further broken down into chapters which shall be numerical in order. The other two, subchapters and sections are optional subdivisions to be used by agencies when appropriate.*

**TITLE/MAJOR DIVISIONS OF THE NORTH CAROLINA ADMINISTRATIVE CODE**

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4	Commerce	Barber Examiners	6
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6	Council of State	Chiropractic Examiners	10
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(Updated through October 10, 1997)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
This index provides information related to notices, rules and other documents published in the Register. It includes information about rules for which Notice of Rule-Making Proceedings or Notice of Text have been published, rules submitted to the Rules Review Commission and rules codified since the last session of the General Assembly. For assistance contact the Rules Division at 919/733-2678.										
Fiscal Note: S = Rule affects the expenditure or distribution of state funds. L = Rule affects the expenditure or distribution of local government funds. SE = Rule has a substantial economic impact of at least \$5,000,000 in a 12-month period. * = Rule-making agency has determined that the rule does not impact state or local funds and does not have a substantial economic impact. See G.S. 150B-21.4.										
ADMINISTRATIVE HEARINGS										
Rules Division										
26 NCAC 02C	11:19 NCR 1413									
26 NCAC 03	12:08 NCR 621									
ADMINISTRATION										
State Building Commission										
1 NCAC 30G .0101		11:04 NCR 194	11:19 NCR 1414	*	Approve	03/20/97			11:26 NCR 2004	
1 NCAC 30G .0102		11:04 NCR 194	11:19 NCR 1414	*	Object	03/20/97				
1 NCAC 30G .0103		11:04 NCR 194	11:19 NCR 1414	*	Approve	05/15/97	*		11:30 NCR 2314	
1 NCAC 30G .0104		11:04 NCR 194	11:19 NCR 1414	*	Approve	03/20/97	*		11:26 NCR 2004	
1 NCAC 30G .0105		11:04 NCR 194	11:19 NCR 1414	S/L	Object	03/20/97	*			
				S/L	Approve	05/15/97			11:30 NCR 2314	
					Approve	03/20/97			11:26 NCR 2004	
AGRICULTURE										
2 NCAC 48A .0206	10:24 NCR 3056		11:06 NCR 324	*	Ext. Review	12/19/96				
					Approve	01/16/97	*		11:22 NCR 1717	
2 NCAC 48A .0211	10:24 NCR 3056		11:06 NCR 324	*	Ext. Review	12/19/96				
					Approve	01/16/97	*		11:22 NCR 1717	
2 NCAC 48A .0214	10:24 NCR 3056		11:06 NCR 324	*	Ext. Review	12/19/96				
					Approve	01/16/97			11:22 NCR 1717	
2 NCAC 52A .0104	11:27 NCR 2053		12:03 NCR 169	*						
2 NCAC 52A .0105	11:27 NCR 2053		12:03 NCR 169	*						
2 NCAC 52A .0106	11:27 NCR 2053		12:03 NCR 169	*						
2 NCAC 52A .0107	11:27 NCR 2053		12:03 NCR 169	*						
2 NCAC 52A .0108	11:27 NCR 2053		12:03 NCR 169	*						
2 NCAC 52A .0109	11:27 NCR 2053		12:03 NCR 169	*						
2 NCAC 52B .0212	11:14 NCR 1107		11:22 NCR 1709	*	Approve	05/15/97			11:30 NCR 2314	
2 NCAC 52B .0303	11:14 NCR 1107		11:22 NCR 1709	*	Approve	05/15/97			11:30 NCR 2314	

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2 NCAC 52C .0701	11-14 NCR 1107		11-22 NCR 1709	*	Approve	05/15/97			11-30 NCR 2314	
2 NCAC 52D .0101	11-27 NCR 2053		12-03 NCR 169	*						
<b>Marketing Authority</b>										
2 NCAC 43F .0103	11-14 NCR 1107		11-22 NCR 1706	*	Object	05/15/97				
2 NCAC 43H .0101	11-14 NCR 1107		11-22 NCR 1706	*	Approve	06/19/97	*		12-03 NCR 213	
2 NCAC 43H .0107	11-14 NCR 1107		11-22 NCR 1706	*	Approve	05/15/97			11-30 NCR 2314	
2 NCAC 43L .0202	11-14 NCR 1107		11-22 NCR 1706	*	Object	05/15/97	*		12-03 NCR 213	
2 NCAC 43L .0401	11-14 NCR 1107		11-22 NCR 1706	*	Approve	06/19/97			11-30 NCR 2314	
2 NCAC 43L .0402	11-14 NCR 1107		11-22 NCR 1706	*	Approve	05/15/97			11-30 NCR 2314	
2 NCAC 43L .0403	11-14 NCR 1107		11-22 NCR 1706	*	Approve	05/15/97			11-30 NCR 2314	
2 NCAC 43L .0405	11-14 NCR 1107		11-22 NCR 1706	*	Approve	05/15/97	*		11-30 NCR 2314	
<b>Plant Conservation Board</b>										
2 NCAC 48F .0301	11-07 NCR 407		11-11 NCR 883	*	Approve	03/20/97			11-26 NCR 2004	
2 NCAC 48F .0302	11-07 NCR 407		11-11 NCR 883	*	Approve	03/20/97			11-26 NCR 2004	
2 NCAC 48F .0304	11-07 NCR 407		11-11 NCR 883	*	Approve	03/20/97	*		11-26 NCR 2004	
2 NCAC 48F .0305	11-07 NCR 407		11-11 NCR 883	*	Approve	03/20/97	*		11-26 NCR 2004	
2 NCAC 48F .0306	11-07 NCR 407		11-11 NCR 883	*	Approve	03/20/97	*		11-26 NCR 2004	
<b>Structural Pest Control</b>										
2 NCAC 34 .0503	11-21 NCR 1651		12-06 NCR 455	*						
2 NCAC 34 .0602	11-21 NCR 1651		12-06 NCR 455	*						
2 NCAC 34 .0604	11-21 NCR 1651		12-06 NCR 455	*						
2 NCAC 34 .0605	11-21 NCR 1651		12-06 NCR 455	*						
<b>ARCHITECTURE, BOARD OF</b>										
21 NCAC 02 .0208	12-04 NCR 244									
21 NCAC 02 .0210	12-04 NCR 244									
21 NCAC 02 .0213	12-04 NCR 244									
<b>AUCTIONEERS LICENSING BOARD</b>										
21 NCAC 04B .0202	11-18 NCR 1368									
			11-28 NCR 2129	*						

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21 NCAC 08A .0309	12:08 NCR 619									
21 NCAC 08F .0103	12:08 NCR 619									
21 NCAC 08F .0105	12:08 NCR 619									
21 NCAC 08F .0302	12:08 NCR 619									
21 NCAC 08F .0304	12:08 NCR 619									
21 NCAC 08F .0401	12:08 NCR 619									
21 NCAC 08F .0410	12:08 NCR 619									
21 NCAC 08G .0404	12:08 NCR 619									
21 NCAC 08G .0406	12:08 NCR 619									
21 NCAC 08H .0001	12:08 NCR 619									
21 NCAC 08I .0005	12:08 NCR 619									
21 NCAC 08J .0001	12:08 NCR 619									
21 NCAC 08J .0006	12:08 NCR 619									
21 NCAC 08J .0008	12:08 NCR 619									
21 NCAC 08K .0301	12:08 NCR 619									
<b>COMMERCE</b>										
4 NCAC 01E	11:09 NCR 569									
4 NCAC 01F	11:09 NCR 569									
4 NCAC 01H	11:09 NCR 569									
4 NCAC 01I	11:09 NCR 569									
4 NCAC 01J	11:09 NCR 569									
4 NCAC 01K	11:09 NCR 569									
<b>Community Assistance</b>										
4 NCAC 01K .0501	11:09 NCR 569									
4 NCAC 01K .0502	11:09 NCR 569									
4 NCAC 01K .0503	11:09 NCR 569									
4 NCAC 01K .0504	11:09 NCR 569									
4 NCAC 01K .0505	11:09 NCR 569									
4 NCAC 01K .0506	11:09 NCR 569									
4 NCAC 19L .0401	11:09 NCR 569									
			11:14 NCR 1113							*

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4 NCAC 19L 0403	11-09 NCR 569		11-14 NCR 1113	*						
4 NCAC 19L 0404	11-09 NCR 569		11-14 NCR 1113	*						
4 NCAC 19L 0407	11-09 NCR 569		11-14 NCR 1113	*						
4 NCAC 19L 0501	11-09 NCR 569		11-14 NCR 1113	*						
4 NCAC 19L 0502	11-09 NCR 569		11-14 NCR 1113	*						
4 NCAC 19L 0505	11-09 NCR 569		11-14 NCR 1113	*						
4 NCAC 19L 0706	11-09 NCR 569		11-14 NCR 1113	*						
4 NCAC 19L 0707	11-09 NCR 569		11-14 NCR 1113	*						
4 NCAC 19L 0708	11-09 NCR 569		11-14 NCR 1113	*						
4 NCAC 19L 0802	11-09 NCR 569		11-14 NCR 1113	*						
4 NCAC 19L 0805	11-09 NCR 569									
4 NCAC 19L 0901	11-09 NCR 569		11-14 NCR 1113	*						
4 NCAC 19L 0906	11-09 NCR 569		11-14 NCR 1113	*						
4 NCAC 19L 0907	11-09 NCR 569		11-14 NCR 1113	*						
4 NCAC 19L 0911	11-09 NCR 569		11-14 NCR 1113	*						
4 NCAC 19L 1002	11-09 NCR 569		11-14 NCR 1113	*						
4 NCAC 19L 1004	11-09 NCR 569		11-14 NCR 1113	*						
4 NCAC 19L 1009	11-09 NCR 569		11-14 NCR 1113	*						
4 NCAC 19L 1011	11-09 NCR 569		11-14 NCR 1113	*						
4 NCAC 19L 1301	11-09 NCR 569		11-14 NCR 1113	*						
4 NCAC 19L 1302	11-09 NCR 569		11-14 NCR 1113	*						
4 NCAC 19L 1303	11-09 NCR 569		11-14 NCR 1113	*						
4 NCAC 19L 1701	11-09 NCR 569		11-14 NCR 1113	*						
4 NCAC 19L 1702	11-09 NCR 569		11-14 NCR 1113	*						
4 NCAC 19L 1703	11-09 NCR 569		11-14 NCR 1113	*						
4 NCAC 19L 1801	11-09 NCR 569		11-14 NCR 1113	*						
4 NCAC 19L 1802	11-09 NCR 569		11-14 NCR 1113	*						
4 NCAC 19L 1803	11-09 NCR 569		11-14 NCR 1113	*						
4 NCAC 19L 1804	11-09 NCR 569		11-14 NCR 1113	*						
4 NCAC 19L 1805	11-09 NCR 569		11-14 NCR 1113	*						

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4 NCAC 19L.1900	11:09 NCR 569									
<b>Credit Union Division</b>										
4 NCAC 06C.0205	10:18 NCR 2398		11:29 NCR 2182	*	Approve	08/21/97			12:07 NCR 561	
4 NCAC 06C.0407	10:18 NCR 2398		11:29 NCR 2182	*	Object	08/21/97				
4 NCAC 06C.0409	10:18 NCR 2398		11:29 NCR 2182	*	Approve	09/18/97	*			
					Approve	08/21/97			12:07 NCR 561	
<b>State Ports Authority</b>										
4 NCAC 13A.0101	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13A.0102	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13A.0105	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13A.0202	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13A.0203	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13A.0204	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13B.0001	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13B.0002	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13B.0003	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13B.0004	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13B.0005	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13C.0001	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13D.0101	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E.0101	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E.0102	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E.0103	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E.0201	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E.0202	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E.0301	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E.0302	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E.0401	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E.0402	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E.0403	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	

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4 NCAC 13E .0404	10-24 NCR 3056		11-13 NCR 1040	*	Approve	06/19/97			12-03 NCR 213	
4 NCAC 13E .0405	10-24 NCR 3056		11-13 NCR 1040	*	Approve	06/19/97			12-03 NCR 213	
4 NCAC 13E .0501	10-24 NCR 3056		11-13 NCR 1040	*	Approve	06/19/97			12-03 NCR 213	
4 NCAC 13E .0502	10-24 NCR 3056		11-13 NCR 1040	*	Approve	06/19/97			12-03 NCR 213	
4 NCAC 13E .0601	10-24 NCR 3056		11-13 NCR 1040	*	Approve	06/19/97			12-03 NCR 213	
4 NCAC 13E .0602	10-24 NCR 3056		11-13 NCR 1040	*	Approve	06/19/97			12-03 NCR 213	
4 NCAC 13E .0603	10-24 NCR 3056		11-13 NCR 1040	*	Approve	06/19/97			12-03 NCR 213	
4 NCAC 13E .0701	10-24 NCR 3056		11-13 NCR 1040	*	Approve	06/19/97			12-03 NCR 213	
4 NCAC 13E .0702	10-24 NCR 3056		11-13 NCR 1040	*	Approve	06/19/97			12-03 NCR 213	
4 NCAC 13E .0801	10-24 NCR 3056		11-13 NCR 1040	*	Approve	06/19/97			12-03 NCR 213	
4 NCAC 13E .0803	10-24 NCR 3056		11-13 NCR 1040	*	Approve	06/19/97			12-03 NCR 213	
4 NCAC 13E .0901	10-24 NCR 3056		11-13 NCR 1040	*	Approve	06/19/97			12-03 NCR 213	
4 NCAC 13E .0902	10-24 NCR 3056		11-13 NCR 1040	*	Approve	06/19/97			12-03 NCR 213	
4 NCAC 13F .0301	10-24 NCR 3056		11-13 NCR 1040	*	Approve	06/19/97			12-03 NCR 213	
4 NCAC 13F .0302	10-24 NCR 3056		11-13 NCR 1040	*	Approve	06/19/97			12-03 NCR 213	
<b>COMMUNITY COLLEGES</b>										
23 NCAC 01A .0001	11-18 NCR 1369	11-25 NCR 1919								
23 NCAC 02C .0108	11-18 NCR 1369	11-25 NCR 1919								
23 NCAC 02C .0202	11-18 NCR 1369									
23 NCAC 02C .0207	11-18 NCR 1369									
23 NCAC 02C .0305	11-18 NCR 1369	11-25 NCR 1919								
23 NCAC 02C .0604	11-18 NCR 1369	11-25 NCR 1919								
23 NCAC 02C .0701	11-18 NCR 1369									
23 NCAC 02D .0103	11-18 NCR 1369	11-25 NCR 1919								
23 NCAC 02D .0201	11-18 NCR 1369	11-25 NCR 1919								
23 NCAC 02D .0202	11-17 NCR 1336									
23 NCAC 02D .0202	11-18 NCR 1369	11-25 NCR 1919								
23 NCAC 02D .0203	11-18 NCR 1369	11-25 NCR 1919								
23 NCAC 02D .0301	11-18 NCR 1369	11-25 NCR 1919								
23 NCAC 02D .0323	11-18 NCR 1369	11-25 NCR 1919								

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23 NCAC 02D .0324	11:18 NCR 1369	11:25 NCR 1919								
23 NCAC 02D .0327	11:18 NCR 1369	11:25 NCR 1919								
23 NCAC 02E .0101	11:18 NCR 1369	11:25 NCR 1919								
23 NCAC 02E .0102	11:18 NCR 1369	11:25 NCR 1919								
23 NCAC 02E .0201	11:18 NCR 1369	11:25 NCR 1919								
23 NCAC 02E .0203	10:24 NCR 3058		11:09 NCR 585	*	Object Approve	01/16/97 02/20/97	*		11:24 NCR 1832	
23 NCAC 02E .0203	11:18 NCR 1369	11:25 NCR 1919								
23 NCAC 02E .0204	11:18 NCR 1369	11:25 NCR 1919								
23 NCAC 02E .0205	11:18 NCR 1369	11:25 NCR 1919								
23 NCAC 02E .0501	11:18 NCR 1369	11:25 NCR 1919								
23 NCAC 02E .0604	11:18 NCR 1369	11:25 NCR 1919								
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21 NCAC 14G .0101	12:06 NCR 453									
21 NCAC 14G .0103	12:06 NCR 453									
21 NCAC 14G .0107	12:06 NCR 453									
21 NCAC 14G .0113	12:06 NCR 453									
21 NCAC 14H .0113	12:06 NCR 453									
21 NCAC 14H .0119	12:06 NCR 453									
21 NCAC 14I .0104	12:06 NCR 453									
21 NCAC 14I .0105	12:06 NCR 453									
21 NCAC 14I .0107	12:06 NCR 453									
21 NCAC 14I .0109	12:06 NCR 453									
21 NCAC 14I .0401	12:06 NCR 453									
21 NCAC 14J .0102	12:06 NCR 453									
21 NCAC 14J .0103	12:06 NCR 453									
21 NCAC 14J .0104	12:06 NCR 453									
21 NCAC 14J .0105	12:06 NCR 453									
21 NCAC 14J .0202	12:06 NCR 453									
21 NCAC 14J .0204	12:06 NCR 453									

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21 NCAC 14J .0205	12:06 NCR 453									
21 NCAC 14J .0206	12:06 NCR 453									
21 NCAC 14J .0303	12:06 NCR 453									
21 NCAC 14J .0306	12:06 NCR 453									
21 NCAC 14J .0307	12:06 NCR 453									
21 NCAC 14J .0401	12:06 NCR 453									
21 NCAC 14J .0402	12:06 NCR 453									
21 NCAC 14J .0403	12:06 NCR 453									
21 NCAC 14J .0404	12:06 NCR 453									
21 NCAC 14J .0501	12:06 NCR 453									
21 NCAC 14K .0101	12:06 NCR 453									
21 NCAC 14K .0103	12:06 NCR 453									
21 NCAC 14L .0101	12:06 NCR 453									
21 NCAC 14L .0105	12:06 NCR 453									
21 NCAC 14L .0108	12:06 NCR 453									
21 NCAC 14L .0214	12:06 NCR 453									
21 NCAC 14N .0105	12:06 NCR 453									
21 NCAC 14N .0107	12:06 NCR 453									
21 NCAC 14N .0108	12:06 NCR 453									
21 NCAC 14N .0113	12:06 NCR 453									
<b>CRIME CONTROL &amp; PUBLIC SAFETY</b>										
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14A NCAC 07 .0313	11:24 NCR 1818		12:01 NCR 6							
<b>CULTURAL RESOURCES</b>										
North Carolina Historical Commission										
7 NCAC 04R	12:06 NCR 444									
USS North Carolina Battleship Commission										
7 NCAC 05 .0203		11:19 NCR 1436	Temp Expired							
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21 NCAC 16B.0303	11:20 NCR 1538		11:25 NCR 1915	*	Approve	09/18/97				
21 NCAC 16I.0001	11:20 NCR 1538		11:25 NCR 1915	*						
21 NCAC 16I.0002	11:20 NCR 1538		11:25 NCR 1915	*	Extended review	09/18/97				
21 NCAC 16I.0003	11:20 NCR 1538		11:25 NCR 1915	*	Approve	09/18/97				
21 NCAC 16I.0004	11:20 NCR 1538									
21 NCAC 16I.0005	11:20 NCR 1538									
21 NCAC 16I.0006	11:20 NCR 1538		11:25 NCR 1915	*	Approve	09/18/97				
21 NCAC 16M.0001	11:20 NCR 1538		11:25 NCR 1915	*	Approve	09/18/97				
21 NCAC 16M.0003	11:20 NCR 1538		11:25 NCR 1915	*	Object	09/18/97				
21 NCAC 16R.0001	11:20 NCR 1538		11:25 NCR 1915	*	Extended review	09/18/97				
21 NCAC 16R.0002	11:20 NCR 1538									
21 NCAC 16R.0003	11:20 NCR 1538									
21 NCAC 16R.0004	11:20 NCR 1538		11:25 NCR 1915	*	Approve	09/18/97				
21 NCAC 16R.0005	11:20 NCR 1538									
21 NCAC 16V.0101	10:16 NCR 2043		11:20 NCR 1556	*						Notice Subject Matter
21 NCAC 16V.0102	10:16 NCR 2043		11:20 NCR 1556	*						Notice Subject Matter
<b>ENVIRONMENT AND NATURAL RESOURCES</b>										
15A Public Notice - Division of Water Quality										
15A Administrative Order on Consent - Division of Waste Management										
15A NCAC 01J.0401	12:08 NCR 614									12:03 NCR 112
15A NCAC 01J.0402	12:08 NCR 614									12:03 NCR 158
15A NCAC 01K	10:19 NCR 2506									
15A NCAC 01M.0101		11:19 NCR 1439	Temp Expired							
15A NCAC 01M.0102		11:19 NCR 1439	Temp Expired							
15A NCAC 01M.0201		11:19 NCR 1439	Temp Expired							
15A NCAC 01M.0202		11:19 NCR 1439	Temp Expired							
15A NCAC 01M.0301		11:19 NCR 1439	Temp Expired							
15A NCAC 01M.0302		11:19 NCR 1439	Temp Expired							
15A NCAC 01M.0303		11:19 NCR 1439	Temp Expired							
15A NCAC 01M.0304		11:19 NCR 1439	Temp Expired							



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15A NCAC 01M .0305		11-19 NCR 1439	Temp Expired							
15A NCAC 01M .0306		11-19 NCR 1439	Temp Expired							
15A NCAC 01N	12-08 NCR 614									
15A NCAC 12B .0901		12-03 NCR 209								
15A NCAC 19G .0102	12-02 NCR 52	12-03 NCR 209								
<b>Coastal Resources Commission</b>										
15A NCAC 07	11-04 NCR 183									
15A NCAC 07H .0106	11-19 NCR 1408		11-27 NCR 2058	*						
15A NCAC 07H .0201	11-22 NCR 1704		11-27 NCR 2058	*						
15A NCAC 07H .0202	11-22 NCR 1704		11-27 NCR 2058	*						
15A NCAC 07H .0203	11-22 NCR 1704		agency withdrew							
15A NCAC 07H .0204	11-22 NCR 1704		11-27 NCR 2058	*						
15A NCAC 07H .0205	11-22 NCR 1704		11-27 NCR 2058	*						
15A NCAC 07H .0206	11-22 NCR 1704		11-27 NCR 2058	*						
15A NCAC 07H .0207	11-22 NCR 1704		agency withdrew							
15A NCAC 07H .0208	11-22 NCR 1704		11-27 NCR 2058	*	Object	08/21/97	*			
					Approve	09/18/97				
15A NCAC 07H .0208	11-04 NCR 183		11-11 NCR 907	*						
15A NCAC 07H .0208	11-19 NCR 1408		11-27 NCR 2058	*						
15A NCAC 07H .0210	12-02 NCR 52									
15A NCAC 07H .0304	11-15 NCR 1200	11-15 NCR 1226	11-27 NCR 2069	S						
		Temp Expired								
15A NCAC 07H .0305	11-15 NCR 1200	12-08 NCR 726	11-27 NCR 2069	S						
		Temp Expired								
		12-08 NCR 726								
15A NCAC 07H .0306	11-04 NCR 183		11-11 NCR 907	*						
15A NCAC 07H .0309	11-08 NCR 442		11-12 NCR 981	*	Approve	01/16/97	*		11-22 NCR 1717	
15A NCAC 07H .1104	11-04 NCR 183		11-11 NCR 907	*						
15A NCAC 07H .1202	11-04 NCR 183		11-11 NCR 907	*	Approve	08/21/97	*		12-07 NCR 561	
15A NCAC 07H .1204	11-04 NCR 183		11-11 NCR 907	*	Object	08/21/97	*			
					Approve	09/18/97	*			
15A NCAC 07H .1205	11-04 NCR 183		11-11 NCR 907	*	Approve	08/21/97	*		12-07 NCR 561	

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15A NCAC 07H .1304	11:04 NCR 183		11:11 NCR 907	*						
15A NCAC 07H .1404	11:04 NCR 183		11:11 NCR 907	*						
15A NCAC 07H .1504	11:04 NCR 183		11:11 NCR 907	*						
15A NCAC 07H .1600	11:15 NCR 1200									
15A NCAC 07H .1601	11:15 NCR 1200		11:27 NCR 2071	*						
15A NCAC 07H .1604	11:15 NCR 1200		11:27 NCR 2071	*						
15A NCAC 07H .1605	11:15 NCR 1200		11:27 NCR 2071	*						
15A NCAC 07H .1704	11:04 NCR 183		11:11 NCR 907	*						
15A NCAC 07H .1804	11:04 NCR 183		11:11 NCR 907	*						
15A NCAC 07H .1904	11:04 NCR 183		11:11 NCR 907	*						
15A NCAC 07H .2004	11:04 NCR 183		11:11 NCR 907	*						
15A NCAC 07H .2104	11:04 NCR 183		11:11 NCR 907	*						
15A NCAC 07K .0203	11:04 NCR 183		11:11 NCR 907	*	Approve	08/21/97	*		12:07 NCR 561	
15A NCAC 07M .0301	10:16B NCR 1921		11:11 NCR 907	*						
15A NCAC 07M .0302	10:16B NCR 1921		11:11 NCR 907	*						
15A NCAC 07M .0303	10:16B NCR 1921		11:11 NCR 907	*						
15A NCAC 07M .0304	10:16B NCR 1921		11:11 NCR 907	*						
15A NCAC 07M .0305	10:16B NCR 1921		11:11 NCR 907	*						
15A NCAC 07M .0306	10:16B NCR 1921		11:11 NCR 907	*						
15A NCAC 07M .0307	10:16B NCR 1921		11:11 NCR 907	*						
15A NCAC 07M .0308	10:16B NCR 1921		11:11 NCR 907	*						
15A NCAC 07M .0309	10:16B NCR 1921		11:11 NCR 907	*						
15A NCAC 07M .0401	10:18 NCR 2317		11:11 NCR 931	*	Approve	01/16/97	*			
15A NCAC 07M .0402	10:18 NCR 2317		11:11 NCR 931	*	Approve	01/16/97	*			
15A NCAC 07M .0403	10:18 NCR 2317		11:11 NCR 931	*	Object	01/16/97	*			
					Approve	02/20/97	*		11:24 NCR 1832	
15A NCAC 07M .1201	11:19 NCR 1408		11:27 NCR 2058	*						
15A NCAC 07M .1202	11:19 NCR 1408		11:27 NCR 2058	*						
<b>Environmental Management Commission</b>										
15A NCAC 02	10:24 NCR 3045									

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15A NCAC 02	11-04 NCR 183									
15A NCAC 02	11-19 NCR 1408									
15A NCAC 02B .0101	11-24 NCR 1818		11-30 NCR 2303	*						
15A NCAC 02B .0202	11-24 NCR 1818		11-30 NCR 2303	*						
15A NCAC 02B .0202	11-02 NCR 75		12-06 NCR 462	S/L/SE						
15A NCAC 02B .0223	11-02 NCR 75									
15A NCAC 02B .0223	11-03 NCR 109									
15A NCAC 02B .0224	10-18 NCR 2400		11-12 NCR 973	*						
15A NCAC 02B .0227	10-18 NCR 2400		11-12 NCR 973	*						
15A NCAC 02B .0230	11-24 NCR 1818		11-30 NCR 2303	*						
15A NCAC 02B .0231	11-02 NCR 75		11-10 NCR 824	L/SE						
			11-14 NCR 1136							
15A NCAC 02B .0232	11-02 NCR 75		11-10 NCR 824	L						
			11-14 NCR 1136							
15A NCAC 02B .0233	11-02 NCR 75		12-06 NCR 462	S/L/SE						
		12-02 NCR 77	11-10 NCR 824	L						
15A NCAC 02B .0234	11-02 NCR 75		11-14 NCR 1136	L						
			12-06 NCR 462	S/L/SE						
15A NCAC 02B .0235	11-02 NCR 75		11-10 NCR 824	*						
			11-14 NCR 1136							
15A NCAC 02B .0236	11-02 NCR 75		12-06 NCR 462	S/L/SE						
			11-10 NCR 824	L						
15A NCAC 02B .0238	11-02 NCR 75		12-06 NCR 462	S/L/SE						
15A NCAC 02B .0239	11-02 NCR 75		11-14 NCR 1136							
15A NCAC 02B .0240	11-02 NCR 75		12-06 NCR 462	S/L/SE						
15A NCAC 02B .0303	10-18 NCR 2400		11-12 NCR 973	*						
15A NCAC 02B .0304	11-24 NCR 1818		12-01 NCR 6	*						
15A NCAC 02B .0304	11-26 NCR 1976		12-01 NCR 6	S						
15A NCAC 02B .0304	11-26 NCR 1984		12-01 NCR 6	S						
15A NCAC 02B .0305	11-20 NCR 1534		12-05 NCR 414	*						

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15A NCAC 02B .0306	11:26 NCR 1976		12:01 NCR 6	*						
15A NCAC 02B .0306	11:26 NCR 1984		12:01 NCR 6	*						
15A NCAC 02B .0307	11:26 NCR 1976		12:01 NCR 6	*						
15A NCAC 02B .0307	11:26 NCR 1984		12:01 NCR 6	*						
15A NCAC 02B .0308	11:20 NCR 1534		11:28 NCR 2121	*						
15A NCAC 02B .0308	11:26 NCR 1976		12:01 NCR 6	*						
15A NCAC 02B .0308	11:26 NCR 1984		12:01 NCR 6	*						
15A NCAC 02B .0309	11:26 NCR 1976		12:01 NCR 6	*						
15A NCAC 02B .0309	11:26 NCR 1984		12:01 NCR 6	*						
15A NCAC 02B .0311	11:26 NCR 1976		12:01 NCR 6	*						
15A NCAC 02B .0311	11:26 NCR 1984		12:01 NCR 6	*						
15A NCAC 02B .0313	11:24 NCR 1818		12:05 NCR 416	*						
15A NCAC 02B .0313	11:26 NCR 1976		12:01 NCR 6	*						
15A NCAC 02B .0313	11:26 NCR 1984		12:01 NCR 6	*						
15A NCAC 02B .0315	11:24 NCR 1818		12:07 NCR 515	L						
15A NCAC 02B .0316	11:20 NCR 1534									
15A NCAC 02B .0316	11:26 NCR 1976		12:01 NCR 6	*						
15A NCAC 02B .0316	11:26 NCR 1984		12:01 NCR 6	*						
15A NCAC 02B .0317	11:26 NCR 1976		12:01 NCR 6	*						
	11:26 NCR 1984		12:01 NCR 6	*						
15A NCAC 02D .0101	11:15 NCR 1200		12:04 NCR 270	*						
15A NCAC 02D .0101	12:02 NCR 52									
15A NCAC 02D .0104	11:15 NCR 1200		12:04 NCR 270	*						
15A NCAC 02D .0105	11:15 NCR 1200		12:04 NCR 270	*						
15A NCAC 02D .0108	11:15 NCR 1200									
15A NCAC 02D .0202	11:15 NCR 1200		12:04 NCR 270	*						
15A NCAC 02D .0302	11:15 NCR 1200		12:04 NCR 270	*						
15A NCAC 02D .0307	11:15 NCR 1200									
15A NCAC 02D .0501	11:15 NCR 1200									
15A NCAC 02D .0518	11:19 NCR 1408									

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15A NCAC 02D .0521	11:15 NCR 1200									
15A NCAC 02D .0524	11:15 NCR 1200									
15A NCAC 02D .0525	11:15 NCR 1200									
15A NCAC 02D .0531	11:15 NCR 1200		12:04 NCR 270	*						
15A NCAC 02D .0535	10:18 NCR 2317		11:16 NCR 1271	*	Approve	04/17/97			11:29 NCR 2211	
	10:18 NCR 2317		12:08 NCR 650	*						
15A NCAC 02D .0610	11:15 NCR 1200									
15A NCAC 02D .0806	11:26 NCR 1976									
15A NCAC 02D .0902	11:19 NCR 1408									
15A NCAC 02D .0909	11:19 NCR 1408									
15A NCAC 02D .0912	11:15 NCR 1200									
15A NCAC 02D .0917	11:19 NCR 1408									
15A NCAC 02D .0918	11:19 NCR 1408									
15A NCAC 02D .0919	11:19 NCR 1408									
15A NCAC 02D .0920	11:19 NCR 1408									
15A NCAC 02D .0921	11:19 NCR 1408									
15A NCAC 02D .0922	11:19 NCR 1408									
15A NCAC 02D .0923	11:19 NCR 1408									
15A NCAC 02D .0924	11:19 NCR 1408									
15A NCAC 02D .0927	10:18 NCR 2317		12:08 NCR 650	*						
15A NCAC 02D .0934	11:19 NCR 1408									
15A NCAC 02D .0938	12:02 NCR 52									
15A NCAC 02D .0948	11:19 NCR 1408									
15A NCAC 02D .0949	11:19 NCR 1408									
15A NCAC 02D .0950	11:19 NCR 1408									
15A NCAC 02D .0951	11:19 NCR 1408									
15A NCAC 02D .0953	11:15 NCR 1200		12:04 NCR 270	*						
15A NCAC 02D .0953	11:26 NCR 1976									
15A NCAC 02D .0954	11:15 NCR 1200									
15A NCAC 02D .1005	11:15 NCR 1200		12:04 NCR 270	*						

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15A NCAC 02D .1100	11:08 NCR 442									
15A NCAC 02D .1102	11:08 NCR 442		12:08 NCR 650	SE						
15A NCAC 02D .1103	11:08 NCR 442		12:08 NCR 650	SE						
15A NCAC 02D .1104	11:08 NCR 442		12:08 NCR 650	SE						
15A NCAC 02D .1104	12:02 NCR 52	12:02 NCR 77								
15A NCAC 02D .1106	11:08 NCR 442		12:08 NCR 650	SE						
15A NCAC 02D .1106	11:26 NCR 1976									
15A NCAC 02D .1107	11:15 NCR 1200		12:04 NCR 270	*						
15A NCAC 02D .1109	10:18 NCR 2317		12:08 NCR 650	*						
15A NCAC 02D .1112	10:18 NCR 2317		12:08 NCR 650	*						
15A NCAC 02D .1201	10:24 NCR 3045		11:16 NCR 1271	L/SE	Approve	04/17/97			11:29 NCR 2211	
15A NCAC 02D .1201	10:18 NCR 2317		12:08 NCR 650	*						
15A NCAC 02D .1202	10:24 NCR 3045		11:16 NCR 1271	L/SE	Approve	04/17/97			11:29 NCR 2211	
15A NCAC 02D .1203	10:24 NCR 3045		11:16 NCR 1271	L/SE	Approve	04/17/97			11:29 NCR 2211	
15A NCAC 02D .1203	11:15 NCR 1200									
15A NCAC 02D .1204	10:24 NCR 3045		11:16 NCR 1271	L/SE	Approve	04/17/97			11:29 NCR 2211	
15A NCAC 02D .1204	11:04 NCR 183		12:04 NCR 270	*						
15A NCAC 02D .1205	10:24 NCR 3045		11:16 NCR 1271	L/SE	Approve	04/17/97			11:29 NCR 2211	
15A NCAC 02D .1205	10:18 NCR 2317		12:08 NCR 650	*						
15A NCAC 02D .1206	10:24 NCR 3045		11:16 NCR 1271	L/SE	Approve	04/17/97			11:29 NCR 2211	
15A NCAC 02D .1206	11:04 NCR 183		12:04 NCR 270	*						
15A NCAC 02D .1207	10:24 NCR 3045		11:16 NCR 1271	L/SE	Approve	04/17/97			11:29 NCR 2211	
15A NCAC 02D .1208	10:24 NCR 3045		11:16 NCR 1271	L/SE	Approve	04/17/97	*		11:29 NCR 2211	
15A NCAC 02D .1209	10:24 NCR 3045		11:16 NCR 1271	L/SE	Approve	04/17/97	*		11:29 NCR 2211	
15A NCAC 02D .1305	11:04 NCR 183		12:04 NCR 270	*					11:29 NCR 2211	
15A NCAC 02D .1500	11:19 NCR 1408									
15A NCAC 02D .1503	11:15 NCR 1200		12:04 NCR 270	*						
15A NCAC 02D .1603	11:15 NCR 1200		12:04 NCR 270	*						
15A NCAC 02D .1701	11:15 NCR 1200		12:04 NCR 270	*						
15A NCAC 02D .1702	11:15 NCR 1200		12:04 NCR 270	*						

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15A NCAC 02D 1703	11:15 NCR 1200		12:04 NCR 270	L						
15A NCAC 02D 1704	11:15 NCR 1200		12:04 NCR 270	*						
15A NCAC 02D 1705	11:15 NCR 1200		12:04 NCR 270	L						
15A NCAC 02D 1706	11:15 NCR 1200		12:04 NCR 270	*						
15A NCAC 02D 1707	11:15 NCR 1200		12:04 NCR 270	L						
15A NCAC 02D 1708	11:15 NCR 1200		12:04 NCR 270	L						
15A NCAC 02D 1709	11:15 NCR 1200		12:04 NCR 270	L						
15A NCAC 02D 1710	11:15 NCR 1200		12:04 NCR 270	*						
15A NCAC 02D 1700	12:02 NCR 52									
15A NCAC 02D 1902	11:19 NCR 1408		12:04 NCR 270	*						
15A NCAC 02D 1903	11:19 NCR 1408		12:04 NCR 270	*						
15A NCAC 02D 2200	11:26 NCR 1976									
15A NCAC 02D 0225	11:15 NCR 1200	11:15 NCR 1225 11:27 NCR 2073	11:20 NCR 1550 11:27 NCR 2073	*	Object	07/17/97				
				*	Approve	08/21/97	*		12:07 NCR 561	
15A NCAC 02H 0610	10:18 NCR 2317		12:08 NCR 650	*						
15A NCAC 02H 0610	11:08 NCR 442									
15A NCAC 02H 0610	12:02 NCR 52	12:02 NCR 77								
15A NCAC 02H 1202	11:15 NCR 1200									
15A NCAC 02H 1203	11:15 NCR 1200									
15A NCAC 02H 1204	11:15 NCR 1200									
15A NCAC 02H 1205	11:15 NCR 1200									
15A NCAC 02L	11:15 NCR 1200 11:15 NCR 1204									
15A NCAC 02L 0106		10:19 NCR 2508 12:08 NCR 713	11:21 NCR 1639	*						
15A NCAC 02L 0115	11:15 NCR 1200 11:15 NCR 1204	12:08 NCR 713	11:21 NCR 1639	L						
15A NCAC 02L 0202	10:20 NCR 2591									
15A NCAC 02N	11:15 NCR 1200									
15A NCAC 02N	11:15 NCR 1204									
15A NCAC 02N 0701	11:15 NCR 1200	12:08 NCR 713	11:21 NCR 1639	*						
15A NCAC 02N 0707	11:15 NCR 1204	12:08 NCR 713	11:21 NCR 1639	*						

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15A NCAC 02P	11:15 NCR 1200									
15A NCAC 02P .0402	11:15 NCR 1204	10:19 NCR 2512	11:21 NCR 1639	*						
		12:08 NCR 713								
15A NCAC 02Q .0101	10:18 NCR 2317		12:08 NCR 650	*						
15A NCAC 02Q .0102	10:18 NCR 2317		12:08 NCR 650	*						
15A NCAC 02Q .0102			11:06 NCR 350	*						
15A NCAC 02Q .0102	11:19 NCR 1408									
15A NCAC 02Q .0102	12:02 NCR 52									
15A NCAC 02Q .0103	11:15 NCR 1200		12:04 NCR 270	*						
15A NCAC 02Q .0108	11:15 NCR 1200		12:04 NCR 270	*						
15A NCAC 02Q .0201	12:02 NCR 52									
15A NCAC 02Q .0207	11:19 NCR 1408		12:04 NCR 270	*						
15A NCAC 02Q .0300	11:26 NCR 1976									
15A NCAC 02Q .0301	10:18 NCR 2317		12:08 NCR 650	*						
15A NCAC 02Q .0302	10:18 NCR 2317		12:08 NCR 650	*						
15A NCAC 02Q .0306	10:18 NCR 2317		12:08 NCR 650	*						
15A NCAC 02Q .0307	11:15 NCR 1200		12:04 NCR 270	*						
15A NCAC 02Q .0312	10:18 NCR 2317		12:08 NCR 650	*						
15A NCAC 02Q .0312	10:24 NCR 3045		11:16 NCR 1271	*	Approve	04/17/97			11:29 NCR 2211	
15A NCAC 02Q .0313	10:24 NCR 3045		11:16 NCR 1271	*	Approve	04/17/97			11:29 NCR 2211	
15A NCAC 02Q .0400	12:04 NCR 240									
15A NCAC 02Q .0501	10:18 NCR 2317		12:08 NCR 650	*						
15A NCAC 02Q .0521	11:15 NCR 1200		12:04 NCR 270	*						
15A NCAC 02Q .0525	10:24 NCR 3045		11:16 NCR 1271	*	Approve	04/17/97			11:29 NCR 2211	
15A NCAC 02Q .0527	10:18 NCR 2317		12:08 NCR 650	*						
15A NCAC 02Q .0527	10:24 NCR 3045		11:16 NCR 1271	*	Approve	04/17/97			11:29 NCR 2211	
15A NCAC 02Q .0607	10:24 NCR 3045		11:16 NCR 1271	*	Approve	04/17/97			11:29 NCR 2211	
15A NCAC 02Q .0700	11:08 NCR 442									
15A NCAC 02Q .0701	11:08 NCR 442		12:08 NCR 650	SE						
15A NCAC 02Q .0702	11:08 NCR 442		12:08 NCR 650	SE						
15A NCAC 02Q .0703	11:08 NCR 442		12:08 NCR 650	SE						



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15A NCAC 02Q .0704	11-08 NCR 442		12-08 NCR 650	SE						
15A NCAC 02Q .0705	11-08 NCR 442		12-08 NCR 650	SE						
15A NCAC 02Q .0706	11-08 NCR 442		12-08 NCR 650	SE						
15A NCAC 02Q .0707	11-08 NCR 442		12-08 NCR 650	SE						
15A NCAC 02Q .0708	11-08 NCR 442		12-08 NCR 650	SE						
15A NCAC 02Q .0709	11-08 NCR 442		12-08 NCR 650	SE						
15A NCAC 02Q .0710	11-08 NCR 442		12-08 NCR 650	SE						
15A NCAC 02Q .0711	11-08 NCR 442		12-08 NCR 650	SE						
15A NCAC 02Q .0712	11-08 NCR 442		12-08 NCR 650	SE						
15A NCAC 02Q .0713	11-08 NCR 442		12-08 NCR 650	SE						
15A NCAC 02Q .0801	12-02 NCR 52									
15A NCAC 02Q .0803	12-02 NCR 52									
15A NCAC 02Q .0805	10-18 NCR 2317		12-04 NCR 270	S						
15A NCAC 02Q .0806	10-24 NCR 3045		12-04 NCR 270	S						
15A NCAC 02Q .0807	10-24 NCR 3045		12-04 NCR 270	*						
15A NCAC 02R .0100	12-02 NCR 52									
15A NCAC 02R .0200	12-02 NCR 52									
15A NCAC 02R .0300	12-02 NCR 52									
15A NCAC 02R .0400	12-02 NCR 52									
15A NCAC 02R .0500	12-02 NCR 52									
15A NCAC 02R .0501		11-27 NCR 2075	12-08 NCR 650	S						
15A NCAC 02R .0502		11-27 NCR 2075	12-08 NCR 650	*						
15A NCAC 02R .0503		11-27 NCR 2075	12-08 NCR 650	*						
15A NCAC 02R .0504		11-27 NCR 2075	12-08 NCR 650	*						
15A NCAC 02R .0600	12-02 NCR 52									
<b>Health Services, Commission for</b>										
15A NCAC 13A .0100	12-02 NCR 52									
15A NCAC 13A .0101	11-16 NCR 1269		11-20 NCR 1552	*	Approve	04/17/97			11-29 NCR 2211	
15A NCAC 13A .0101	N/A		N/A		Approve	07/17/97			12-04 NCR 317	
15A NCAC 13A .0105	11-16 NCR 1269		11-20 NCR 1552	*	Approve	04/17/97			11-29 NCR 2211	

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15A NCAC 13A .0107	11:16 NCR 1269		11:20 NCR 1552	*	Approve	04/17/97			11:29 NCR 2211	
15A NCAC 13A .0109	12:07 NCR 509									
15A NCAC 13A .0110	12:07 NCR 509									
15A NCAC 13A .0111	11:16 NCR 1269		11:20 NCR 1552	*	Approve	04/17/97			11:29 NCR 2211	
15A NCAC 13A .0111	12:07 NCR 509									
15A NCAC 13A .0112	11:16 NCR 1269		11:20 NCR 1552	*	Approve	04/17/97			11:29 NCR 2211	
15A NCAC 13A .0119	11:16 NCR 1269		11:20 NCR 1552	*	Approve	04/17/97			11:29 NCR 2211	
15A NCAC 13B .1627	11:08 NCR 442		11:13 NCR 1055	*						
15A NCAC 13B .1800	11:08 NCR 442									
15A NCAC 13B .1800	11:26 NCR 1976									
15A NCAC 18A	11:04 NCR 183									
15A NCAC 18A .0134	11:08 NCR 442		11:12 NCR 987	*	Object	12/19/96			11:22 NCR 1717	
15A NCAC 18A .0168	11:08 NCR 442		11:12 NCR 987	*	Approve	12/19/96	*		11:22 NCR 1717	
15A NCAC 18A .0176	11:08 NCR 442		11:12 NCR 987	*	Object	12/19/96			11:22 NCR 1717	
15A NCAC 18A .0182	11:08 NCR 442		11:12 NCR 987	*	Approve	01/16/97			11:22 NCR 1717	
15A NCAC 18A .0183	11:08 NCR 442		11:12 NCR 987	*	Object	12/19/96	*		11:22 NCR 1717	
15A NCAC 18A .0185	11:08 NCR 442		11:12 NCR 987	*	Approve	01/16/97			11:22 NCR 1717	
15A NCAC 18A .0187	11:08 NCR 442		11:12 NCR 987	*	Object	12/19/96			11:22 NCR 1717	
15A NCAC 18A .0301	11:08 NCR 442		11:12 NCR 987	*	Approve	01/16/97	*		11:22 NCR 1717	
15A NCAC 18A .0421	11:08 NCR 442		11:12 NCR 987	*	Object	12/19/96	*		11:22 NCR 1717	
15A NCAC 18A .0614	11:08 NCR 442		11:12 NCR 987	*	Approve	01/16/97			11:22 NCR 1717	
15A NCAC 18A .0618	11:08 NCR 442		11:12 NCR 987	*	Object	12/19/96	*		11:22 NCR 1717	
15A NCAC 18A .0621	11:08 NCR 442		11:12 NCR 987	*	Approve	01/16/97			11:22 NCR 1717	
15A NCAC 18A .0901	11:08 NCR 442		11:12 NCR 987	*	Object	12/19/96	*		11:22 NCR 1717	
15A NCAC 18A .1301	11:08 NCR 442		11:12 NCR 987	*	Approve	01/16/97			11:22 NCR 1717	

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15A NCAC 18A.1319	11-08 NCR 442		11-12 NCR 987	*	Approve Object	01-16/97 12-19/96	*		11-22 NCR 1717	
15A NCAC 18A.1937	11-19 NCR 1408	11-20 NCR 1561	12-02 NCR 61	*	Approve	01-16/97			11-22 NCR 1717	
15A NCAC 18A.1938	11-19 NCR 1408	11-20 NCR 1561	12-02 NCR 61	*						
15A NCAC 18A.1958	11-19 NCR 1408	11-20 NCR 1561	12-02 NCR 61	*						
15A NCAC 18A.1961	11-19 NCR 1408	11-20 NCR 1561	12-02 NCR 61	*						
15A NCAC 18A.2301	12-03 NCR 168		12-07 NCR 519	*						
15A NCAC 18A.2302	12-03 NCR 168		12-07 NCR 519	*						
15A NCAC 18A.2303	12-03 NCR 168		12-07 NCR 519	*						
15A NCAC 18A.2304	12-03 NCR 168		12-07 NCR 519	*						
15A NCAC 18A.2305	12-03 NCR 168		12-07 NCR 519	*						
15A NCAC 18A.2306	12-03 NCR 168		12-07 NCR 519	*						
15A NCAC 18A.2307	12-03 NCR 168		12-07 NCR 519	*						
15A NCAC 18A.2308	12-03 NCR 168		12-07 NCR 519	*						
15A NCAC 18A.2309	12-03 NCR 168		12-07 NCR 519	*						
15A NCAC 18A.2310	12-03 NCR 168		12-07 NCR 519	*						
15A NCAC 18A.2508	12-08 NCR 614		12-07 NCR 519	*						
15A NCAC 18A.2513	12-08 NCR 614		12-07 NCR 519	*						
15A NCAC 18A.2515	12-08 NCR 614		12-07 NCR 519	*						
15A NCAC 18A.2517	12-08 NCR 614		12-07 NCR 519	*						
15A NCAC 18A.2518	12-08 NCR 614		12-07 NCR 519	*						
15A NCAC 18A.2522	12-08 NCR 614		12-07 NCR 519	*						
15A NCAC 18A.2526	12-08 NCR 614		12-07 NCR 519	*						
15A NCAC 18A.2528	12-08 NCR 614		12-07 NCR 519	*						
15A NCAC 18A.2530	12-08 NCR 614		12-07 NCR 519	*						
15A NCAC 18A.2531	12-08 NCR 614		12-07 NCR 519	*						
15A NCAC 18A.2532	12-08 NCR 614		12-07 NCR 519	*						
15A NCAC 18A.2535	12-08 NCR 614		12-07 NCR 519	*						
15A NCAC 18A.2537	12-08 NCR 614		12-07 NCR 519	*						
15A NCAC 18A.2539	12-08 NCR 614		12-07 NCR 519	*						

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15A NCAC 18A .2543	12:08 NCR 614									
15A NCAC 18A .2600	12:04 NCR 240									
15A NCAC 18A .2601	12:04 NCR 240			*						
15A NCAC 18A .2602	12:04 NCR 240		12:08 NCR 696	*						
15A NCAC 18A .2603	12:04 NCR 240		12:08 NCR 696	*						
15A NCAC 18A .2604	12:04 NCR 240		12:08 NCR 696	*						
15A NCAC 18A .2605	12:04 NCR 240		12:08 NCR 696	*						
15A NCAC 18A .2606	12:04 NCR 240		12:08 NCR 696	*						
15A NCAC 18A .2607	12:04 NCR 240		12:08 NCR 696	*						
15A NCAC 18A .2608	12:04 NCR 240		12:08 NCR 696	*						
15A NCAC 18A .2609	12:04 NCR 240		12:08 NCR 696	*						
15A NCAC 18A .2610	12:04 NCR 240		12:08 NCR 696	*						
15A NCAC 18A .2612	12:04 NCR 240		12:08 NCR 696	*						
15A NCAC 18A .2613	12:04 NCR 240		12:08 NCR 696	*						
15A NCAC 18A .2614	12:04 NCR 240		12:08 NCR 696	*						
15A NCAC 18A .2615	12:04 NCR 240		12:08 NCR 696	*						
15A NCAC 18A .2616	12:04 NCR 240		12:08 NCR 696	*						
15A NCAC 18A .2617	12:04 NCR 240		12:08 NCR 696	*						
15A NCAC 18A .2618	12:04 NCR 240		12:08 NCR 696	*						
15A NCAC 18A .2620	12:04 NCR 240		12:08 NCR 696	*						
15A NCAC 18A .2621	12:04 NCR 240		12:08 NCR 696	*						
15A NCAC 18A .2622	12:04 NCR 240		12:08 NCR 696	*						
15A NCAC 18A .2623	12:04 NCR 240		12:08 NCR 696	*						
15A NCAC 18A .2624	12:04 NCR 240		12:08 NCR 696	*						
15A NCAC 18A .2626	12:04 NCR 240		12:08 NCR 696	*						
15A NCAC 18A .2627	12:04 NCR 240		12:08 NCR 696	*						
15A NCAC 18A .2628	12:04 NCR 240		12:08 NCR 696	*						
15A NCAC 18A .2630	12:04 NCR 240		12:08 NCR 696	*						
15A NCAC 18A .2632	12:04 NCR 240		12:08 NCR 696	*						
15A NCAC 18A .2633	12:04 NCR 240		12:08 NCR 696	*						

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15A NCAC 18A .2638	12:04 NCR 240		12:08 NCR 696	*						
15A NCAC 18A .2643	12:04 NCR 240		12:08 NCR 696	*						
15A NCAC 19A .0101	11:26 NCR 1976		12:02 NCR 61	S/L						
15A NCAC 19A .0101	12:02 NCR 52	12:02 NCR 88								
15A NCAC 19A .0102	11:26 NCR 1976		12:02 NCR 61	S/L						
15A NCAC 19A .0201	11:26 NCR 1976		12:02 NCR 61	*						
15A NCAC 19A .0203	11:21 NCR 1638		12:02 NCR 61	*						
15A NCAC 19A .0205	11:26 NCR 1976		12:02 NCR 61	*						
15A NCAC 19C .0801		12:01 NCR 31								
15A NCAC 19C .0802		12:01 NCR 31								
15A NCAC 19C .0803		12:01 NCR 31								
15A NCAC 21I .0101		11:07 NCR 422	11:20 NCR 1552	*	Approve	04/17/97	*		11:29 NCR 2211	
15A NCAC 21J .0101		11:07 NCR 422	11:20 NCR 1552	*	Approve	04/17/97	*		11:29 NCR 2211	
15A NCAC 24A .0202		11:24 NCR 1827	12:02 NCR 61	S						
15A NCAC 24A .0202		12:01 NCR 31	12:07 NCR 519	S						
15A NCAC 26C .0001	11:19 NCR 1408									
15A NCAC 26C .0002	11:19 NCR 1408									
15A NCAC 26C .0003	11:19 NCR 1408									
15A NCAC 26C .0004	11:19 NCR 1408									
15A NCAC 26C .0005	11:19 NCR 1408									
15A NCAC 26C .0006	11:19 NCR 1408									
15A NCAC 26C .0007	11:19 NCR 1408									
<b>Marine Fisheries Commission</b>										
15A NCAC 03	11:11 NCR 881									
15A NCAC 03	11:20 NCR 1537									
15A NCAC 03	11:26 NCR 1985									
15A NCAC 03I .0101	11:26 NCR 1976		12:05 NCR 418	*						
15A NCAC 03I .0117	11:26 NCR 1976	11:26 NCR 2000	12:05 NCR 418	*						
15A NCAC 03J .0103	11:26 NCR 1976		12:05 NCR 418	*						
15A NCAC 03J .0104	11:26 NCR 1976		12:05 NCR 418	*						

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15A NCAC 03J .0202	11:07 NCR 407		11:11 NCR 888	*						
15A NCAC 03J .0202	11:26 NCR 1976		12:05 NCR 418	*						
15A NCAC 03J .0208	11:26 NCR 1976		12:05 NCR 418	*						
15A NCAC 03J .0301	11:26 NCR 1976		12:05 NCR 418	*						
15A NCAC 03L .0102	11:07 NCR 407		11:11 NCR 888	*						
15A NCAC 03M .0204		11:14 NCR 1153	11:18 NCR 1371	*	Approve	04/17/97			11:29 NCR 2211	
15A NCAC 03M .0503		11:18 NCR 1383	11:26 NCR 1988	*	Approve	08/21/97			12:07 NCR 561	
15A NCAC 03M .0503	11:20 NCR 1537	12:05 NCR 431	12:05 NCR 418	*						
15A NCAC 03M .0506		11:18 NCR 1383	11:26 NCR 1988	*	Approve	08/21/97	*		12:07 NCR 561	
15A NCAC 03M .0506	11:26 NCR 1976		12:05 NCR 418	*						
15A NCAC 03M .0507		11:11 NCR 938 Temp Expired	11:26 NCR 1988	*	Approve	08/21/97			12:07 NCR 561	
15A NCAC 03M .0513	11:26 NCR 1976		12:05 NCR 418	*						
15A NCAC 03M .0514		11:18 NCR 1383	11:26 NCR 1088	*	Approve	08/21/97			12:07 NCR 561	
15A NCAC 03O .0204	N/A	N/A	N/A		Approve	08/21/97			12:07 NCR 561	
15A NCAC 03O .0211	11:26 NCR 1976		12:05 NCR 418	*						
<b>Parks and Recreation Commission</b>										
15A NCAC 12K .0101	12:02 NCR 52									
15A NCAC 12K .0103	12:02 NCR 52									
15A NCAC 12K .0104	12:02 NCR 52									
15A NCAC 12K .0105	12:02 NCR 52									
<b>Radiation Protection</b>										
15A NCAC 11 .0100	12:04 NCR 240									
15A NCAC 11 .0300	12:04 NCR 240									
15A NCAC 11 .0400	12:04 NCR 240									
15A NCAC 11 .1100	12:04 NCR 240									
15A NCAC 11 .1400	12:04 NCR 240									
15A NCAC 11 .1600	12:04 NCR 240									
<b>Water Pollution Control System Operators Certification Commission</b>										
15A NCAC 08A	11:26 NCR 1976									

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15A NCAC 08B	11-26 NCR 1976									
15A NCAC 08C	11-26 NCR 1976									
15A NCAC 08D	11-26 NCR 1976									
15A NCAC 08E	11-26 NCR 1976									
15A NCAC 08F	11-26 NCR 1976									
15A NCAC 08F .0101		11-19 NCR 1442	11-28 NCR 2123	*	Approve	09/18/97	*			
15A NCAC 08F .0102		11-19 NCR 1442	11-28 NCR 2123	*	Withheld	09/18/97				
15A NCAC 08F .0201		11-19 NCR 1442	11-28 NCR 2123	S	Object	09/18/97				
15A NCAC 08F .0202		11-19 NCR 1442	11-28 NCR 2123	S	Approve	09/18/97	*			
15A NCAC 08F .0203		11-19 NCR 1442	11-28 NCR 2123	S	Object	09/18/97				
15A NCAC 08F .0301		11-19 NCR 1442	11-28 NCR 2123	S	Approve	09/18/97	*			
15A NCAC 08F .0401		11-19 NCR 1442	11-28 NCR 2123	*	Approve	09/18/97	*			
15A NCAC 08F .0402		11-19 NCR 1442	11-28 NCR 2123	S	Approve	09/18/97	*			
15A NCAC 08F .0403		11-19 NCR 1442	11-28 NCR 2123	S	Withheld	09/18/97				
15A NCAC 08F .0404		11-19 NCR 1442	11-28 NCR 2123	S	Approve	09/18/97				
15A NCAC 08F .0405		11-19 NCR 1442	11-28 NCR 2123	S	Approve	09/18/97	*			
15A NCAC 08F .0406		11-19 NCR 1442	11-28 NCR 2123	S	Approve	09/18/97	*			
15A NCAC 08F .0407		11-19 NCR 1442	11-28 NCR 2123	S	Approve	09/18/97	*			
15A NCAC 08F .0501		11-19 NCR 1442	11-28 NCR 2123	*	Approve	09/18/97	*			
15A NCAC 08F .0502		11-19 NCR 1442	11-28 NCR 2123	S	Approve	09/18/97				
15A NCAC 08F .0503		11-19 NCR 1442	11-28 NCR 2123	S	Approve	09/18/97				
15A NCAC 08F .0504		11-19 NCR 1442	11-28 NCR 2123	S	Approve	09/18/97				
15A NCAC 08F .0505		11-19 NCR 1442	11-28 NCR 2123	S	Approve	09/18/97	*			
15A NCAC 08F .0506		11-19 NCR 1442	11-28 NCR 2123	*	Approve	09/18/97				
<b>Wildlife Resources Commission</b>										
15A NCAC 10B .0100	12-06 NCR 445									
15A NCAC 10B .0115	11-11 NCR 882									
15A NCAC 10B .0116	11-12 NCR 959	Agency Withdrew Rule-making	11-18 NCR 1372	*	Approve	04/17/97			11-29 NCR 2211	
15A NCAC 10B .0200	12-06 NCR 445									
15A NCAC 10B .0208	11-02 NCR 76			*	Agency Withdrew Rule-making					

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15A NCAC 10B .0300	12:06 NCR 445									
15A NCAC 10B .0400	12:06 NCR 445									
15A NCAC 10C .0101	12:06 NCR 445									
15A NCAC 10C .0102	12:06 NCR 445									
15A NCAC 10C .0103	12:06 NCR 445									
15A NCAC 10C .0104	12:06 NCR 445									
15A NCAC 10C .0105	12:06 NCR 445									
15A NCAC 10C .0106	12:06 NCR 445									
15A NCAC 10C .0107	11:02 NCR 76									
15A NCAC 10C .0107	12:06 NCR 445									
15A NCAC 10C .0108	12:06 NCR 445									
15A NCAC 10C .0109	12:06 NCR 445									
15A NCAC 10C .0110	12:06 NCR 445									
15A NCAC 10C .0111	12:06 NCR 445									
15A NCAC 10C .0203	12:06 NCR 445									
15A NCAC 10C .0205	12:06 NCR 445									
15A NCAC 10C .0206	12:06 NCR 445									
15A NCAC 10C .0211	12:06 NCR 445									
15A NCAC 10C .0212	12:06 NCR 445									
15A NCAC 10C .0215	12:06 NCR 445									
15A NCAC 10C .0302	12:06 NCR 445									
15A NCAC 10C .0304	12:06 NCR 445									
15A NCAC 10C .0305	12:06 NCR 445									
15A NCAC 10C .0401	11:02 NCR 76									
15A NCAC 10C .0401	11:07 NCR 408									
15A NCAC 10C .0401	12:06 NCR 445									
15A NCAC 10C .0402	12:06 NCR 445									
15A NCAC 10C .0404	12:06 NCR 445									
15A NCAC 10C .0407	12:06 NCR 445									
15A NCAC 10D .0001	12:06 NCR 445									

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15A NCAC 10D .0002	11-02 NCR 76		11-08 NCR 495	*						
15A NCAC 10D .0002	12-06 NCR 445									
15A NCAC 10D .0003	12-06 NCR 445									
15A NCAC 10D .0004	12-06 NCR 445									
15A NCAC 10E .0001	12-06 NCR 445									
15A NCAC 10E .0002	12-06 NCR 445									
15A NCAC 10E .0003	12-06 NCR 445									
15A NCAC 10E .0004	12-06 NCR 445									
15A NCAC 10F .0100	12-06 NCR 445									
15A NCAC 10F .0300	11-01 NCR 13									
15A NCAC 10F .0302	11-05 NCR 272		11-14 NCR 1150	*	Approve	03/20/97	*		11-26 NCR 2004	
15A NCAC 10F .0307	11-08 NCR 451		11-14 NCR 1150	*	Approve	03/20/97	*		11-26 NCR 2004	
15A NCAC 10F .0308	11-21 NCR 1638		11-29 NCR 2206	*	Approve	09/18/97				
15A NCAC 10F .0311	12-01 NCR 5		12-07 NCR 517	*						
15A NCAC 10F .0317	11-13 NCR 1039		11-19 NCR 1427	*	Approve	04/17/97			11-29 NCR 2211	
15A NCAC 10F .0318	12-06 NCR 445									
15A NCAC 10F .0327	11-14 NCR 1109		11-20 NCR 1551	*	Approve	04/17/97	*		11-29 NCR 2211	
15A NCAC 10F .0330	12-05 NCR 337									
15A NCAC 10F .0330	N/A	N/A	N/A		Approve	09/18/97				
15A NCAC 10F .0333	12-01 NCR 5		12-07 NCR 517	*						
15A NCAC 10F .0339	11-13 NCR 1039		11-19 NCR 1427	*	Approve	04/17/97			11-29 NCR 2211	
15A NCAC 10F .0339	11-21 NCR 1638		11-29 NCR 2206	*	Approve	09/18/97				
15A NCAC 10F .0339	12-05 NCR 337									
15A NCAC 10F .0345	12-06 NCR 445									
15A NCAC 10F .0347	12-06 NCR 445									
15A NCAC 10F .0355	11-25 NCR 1905		12-08 NCR 728	*						
15A NCAC 10F .0360	12-01 NCR 5		12-07 NCR 517	*						
15A NCAC 10F .0367	11-16 NCR 1269									
15A NCAC 10G	11-01 NCR 13	Agency Withdrew Rule-making								
15A NCAC 10G .0100	11-02 NCR 76	Agency Withdrew Rule-making								

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15A NCAC 10G .0400 12:06 NCR 445  
 15A NCAC 10H .0100 12:06 NCR 445  
 15A NCAC 10H .0300 12:06 NCR 445  
 15A NCAC 10H .0800 12:06 NCR 445  
 15A NCAC 10H .0900 12:06 NCR 445  
 15A NCAC 10H .1000 12:06 NCR 445  
 15A NCAC 10H .1100 12:06 NCR 445  
 15A NCAC 10H .1200 12:06 NCR 445  
 15A NCAC 10I .0001 12:06 NCR 445  
 15A NCAC 10I .0002 12:06 NCR 445  
 15A NCAC 10I .0003 12:06 NCR 445  
 15A NCAC 10I .0004 12:06 NCR 445  
 15A NCAC 10I .0005 12:06 NCR 445  
 15A NCAC 10J .0001 12:06 NCR 445  
 15A NCAC 10J .0002 12:06 NCR 445  
 15A NCAC 10J .0003 12:06 NCR 445  
 15A NCAC 10J .0004 12:06 NCR 445

## FINAL DECISION LETTERS

Voting Rights Act 12:01 NCR 4  
 Voting Rights Act 12:02 NCR 50  
 Voting Rights Act 12:04 NCR 236  
 Voting Rights Act 12:05 NCR 334  
 Voting Rights Act 12:07 NCR 507

## GENERAL CONTRACTORS LICENSING BOARD

21 NCAC 12 .0202 11:24 NCR 1828 \*  
 21 NCAC 12 .0204 11:28 NCR 2117 12:07 NCR 524  
 21 NCAC 12 .0503 11:28 NCR 2117 12:04 NCR 292  
 21 NCAC 12 .0504 11:28 NCR 2117  
 21 NCAC 12 .0901 11:28 NCR 2117 12:04 NCR 292

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					Action	Date				
21 NCAC 12.0902	11:28 NCR 2117									
21 NCAC 12.0903	11:28 NCR 2117		12:04 NCR 292	*						
21 NCAC 12.0904	11:28 NCR 2117		12:04 NCR 292	*						
21 NCAC 12.0905	11:28 NCR 2117									
21 NCAC 12.0906	11:28 NCR 2117									
21 NCAC 12.0907	11:28 NCR 2117									
21 NCAC 12.0908	11:28 NCR 2117									
21 NCAC 12.0909	11:28 NCR 2117									
21 NCAC 12.0910	11:28 NCR 2117									
21 NCAC 12.0911	11:28 NCR 2117									
21 NCAC 12.0912	11:28 NCR 2117									
<b>GOVERNOR'S EXECUTIVE ORDERS</b>										
Number 112 - EJT. 05/22/97										12:01 NCR 1
Number 113 - EJT. 06/12/97										12:01 NCR 1
Number 114 - EJT. 06/26/97										12:03 NCR 110
Number 115 - EJT. 07/03/97										12:03 NCR 110
Number 116 - EJT. 07/21/97										12:04 NCR 227
Number 117 - EJT. 09/07/97										12:07 NCR 505
Number 118 - EJT. 09/15/97										12:08 NCR 612
Number 119 - EJT. 10/01/97										12:08 NCR 612
<b>HOUSING FINANCE AGENCY</b>										
24 NCAC 01P.0101		11:14 NCR 1154	11:28 NCR 2132	S	Approve	07/17/97			12:04 NCR 317	
24 NCAC 01P.0102		11:14 NCR 1154	11:28 NCR 2132	S	Approve	07/17/97			12:04 NCR 317	
24 NCAC 01P.0103		11:14 NCR 1154	11:28 NCR 2132	S	Object	07/17/97				
24 NCAC 01P.0201		11:14 NCR 1154	11:28 NCR 2132	S	Approve	08/21/97		*	12:07 NCR 561	
24 NCAC 01P.0202		11:14 NCR 1154	11:28 NCR 2132	S	Approve	07/17/97		*	12:04 NCR 317	
24 NCAC 01P.0203		11:14 NCR 1154	11:28 NCR 2132	S	Approve	07/17/97		*	12:04 NCR 317	
<b>HUMAN RESOURCES</b>										
10 NCAC 01B	11:23 NCR 1779									
<b>Aging</b>										

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					Action	Date				
10 NCAC 22	10:23 NCR 2956									
<b>Child Day Care Commission</b>										
10 NCAC 03U	12:08 NCR 617									
10 NCAC 03U .0302	11:24 NCR 1817									
10 NCAC 03U .0506	11:24 NCR 1817									
10 NCAC 03U .0509	11:24 NCR 1817									
10 NCAC 03U .0601	11:24 NCR 1817									
10 NCAC 03U .0602	11:24 NCR 1817	12:08 NCR 710								
10 NCAC 03U .0604	11:03 NCR 109		11:09 NCR 571	*	Approve	03/20/97			11:26 NCR 2004	
10 NCAC 03U .0604	11:24 NCR 1817	12:08 NCR 710								
10 NCAC 03U .0605	11:24 NCR 1817	12:08 NCR 710								
10 NCAC 03U .0700	11:08 NCR 449									
10 NCAC 03U .0705	11:14 NCR 1108		11:27 NCR 2054	*						
10 NCAC 03U .0705	11:24 NCR 1817	12:08 NCR 710								
10 NCAC 03U .0707	11:08 NCR 449		11:17 NCR 1338	*	Object Approve	03/20/97 04/17/97	*		11:29 NCR 2211	
10 NCAC 03U .0714	11:24 NCR 1817									
10 NCAC 03U .0802	11:24 NCR 1817									
10 NCAC 03U .0803	11:24 NCR 1817									
10 NCAC 03U .0901	11:08 NCR 449		11:17 NCR 1338	*						
10 NCAC 03U .1402	11:24 NCR 1817									
10 NCAC 03U .1403	11:24 NCR 1817									
10 NCAC 03U .1717	11:14 NCR 1108		11:27 NCR 2054	*						
10 NCAC 03U .1717	11:24 NCR 1817									
10 NCAC 03U .2500	11:29 NCR 2181									
10 NCAC 03U .2510	11:08 NCR 449									
10 NCAC 03U .2603	11:24 NCR 1817									
10 NCAC 03U .2606	11:08 NCR 449									
10 NCAC 03U .2610	11:24 NCR 1817									
10 NCAC 03U .2611	11:24 NCR 1817									

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					Action	Date				
Facility Services										
Public Notice - Draft 1998 State Medical Facilities Plan										
Abbreviated Notice of Temporary Rule-making										
10 NCAC 03	10-18 NCR 2399									12:01 NCR 2
10 NCAC 03R .0214	12-08 NCR 617									12:06 NCR 443
10 NCAC 03R .3000	11-23 NCR 1780									
10 NCAC 03R .3001	10-23 NCR 2956		11-06 NCR 328	S/L/SE						
10 NCAC 03R .3002	11-21 NCR 1655		12-04 NCR 246	*						
10 NCAC 03R .3020	10-23 NCR 2956		11-06 NCR 328	S/L/SE						
10 NCAC 03R .3030	10-23 NCR 2956		11-06 NCR 328	S/L/SE	Object Approve	11/21/96 03/20/97	*		11-26 NCR 2004	
10 NCAC 03R .3030		10-21 NCR 2699	11-08 NCR 452	S/L/SE	Object Object Approve Extend Review Approve	10/17/96 11/21/96 03/20/97 03/20/97 08/21/97	* * * *		11-26 NCR 2004 12-07 NCR 561	11:11 NCR 888
10 NCAC 03R .3031	11-23 NCR 1780		11-08 NCR 459							
10 NCAC 03R .3032	10-23 NCR 2956		11-06 NCR 328	S/L/SE						
10 NCAC 03R .3033		10-21 NCR 2699	11-08 NCR 452	S/L/SE	Object Extend Review Approve Object	01/16/97 03/20/97 08/21/97	*			
10 NCAC 03R .3034		10-21 NCR 2699	11-08 NCR 452	S/L/SE	Object	01/16/97				
10 NCAC 03R .3035		10-21 NCR 2699	11-08 NCR 452	S/L/SE	Return to agency	03/20/97			12-07 NCR 561	
10 NCAC 03R .3036		10-21 NCR 2699	11-08 NCR 452	S/L/SE	Object	01/16/97				
10 NCAC 03R .3037		10-21 NCR 2699	11-08 NCR 452	S/L/SE	Return to agency	03/20/97				
10 NCAC 03R .3038		10-21 NCR 2699	11-08 NCR 452	S/L/SE	Object	01/16/97				
10 NCAC 03R .3040	10-23 NCR 2956		11-06 NCR 328	S/L/SE	Return to agency	03/20/97				
10 NCAC 03R .3050	10-23 NCR 2956		11-06 NCR 328	S/L/SE	Object	01/16/97				
10 NCAC 03R .3051		11-21 NCR 1655	12-04 NCR 246	*						
10 NCAC 03R .3052		11-21 NCR 1655	12-04 NCR 246	*						
10 NCAC 03R .3053		11-21 NCR 1655	12-04 NCR 246	*						

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					Action	Date				
10 NCAC 03R .3053		11:22 NCR 1713								
10 NCAC 03R .3053		12:06 NCR 481								
10 NCAC 03R .3054		11:21 NCR 1655	12:04 NCR 246	*						
10 NCAC 03R .3055		11:21 NCR 1655	12:04 NCR 246	*						
10 NCAC 03R .3056		11:21 NCR 1655	12:04 NCR 246	*						
10 NCAC 03R .3057		11:21 NCR 1655	12:04 NCR 246	*						
10 NCAC 03R .3058		11:21 NCR 1655	12:04 NCR 246	*						
10 NCAC 03R .3059		11:21 NCR 1655	12:04 NCR 246	*						
10 NCAC 03R .3060		11:21 NCR 1655	12:04 NCR 246	*						
10 NCAC 03R .3060		12:06 NCR 481								
10 NCAC 03R .3061		11:21 NCR 1655	12:04 NCR 246	*						
10 NCAC 03R .3061		12:06 NCR 481								
10 NCAC 03R .3062		11:21 NCR 1655	12:04 NCR 246	*						
10 NCAC 03R .3062		12:06 NCR 481								
10 NCAC 03R .3063		11:21 NCR 1655	12:04 NCR 246	*						
10 NCAC 03R .3063		12:06 NCR 481								
10 NCAC 03R .3064		11:21 NCR 1655	12:04 NCR 246	*						
10 NCAC 03R .3064		12:06 NCR 481								
10 NCAC 03R .3065		11:21 NCR 1655	12:04 NCR 246	*						
10 NCAC 03R .3065		12:06 NCR 481								
10 NCAC 03R .3066		11:21 NCR 1655	12:04 NCR 246	*						
10 NCAC 03R .3066		12:06 NCR 481								
10 NCAC 03R .3067		11:21 NCR 1655	12:04 NCR 246	*						
10 NCAC 03R .3068		11:21 NCR 1655	12:04 NCR 246	*						
10 NCAC 03R .3069		11:21 NCR 1655	12:04 NCR 246	*						
10 NCAC 03R .3070		11:21 NCR 1655	12:04 NCR 246	*						
10 NCAC 03R .3071		11:21 NCR 1655	12:04 NCR 246	*						
10 NCAC 03R .3072		11:21 NCR 1655	12:04 NCR 246	S/L/SE						
10 NCAC 03R .3072		12:06 NCR 481								
10 NCAC 03R .3073		11:21 NCR 1655	12:04 NCR 246	S/L/SE						

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					Action	Date				
10 NCAC 03R .3074		11-21 NCR 1655	12-04 NCR 246	S/L/SE						
10 NCAC 03R .3075		11-21 NCR 1655	12-04 NCR 246	*						
10 NCAC 03R .3076		11-21 NCR 1655	12-04 NCR 246	S/L/SE						
10 NCAC 03R .3077		11-21 NCR 1655	12-04 NCR 246	*						
10 NCAC 03R .3078		11-21 NCR 1655	12-04 NCR 246	S/L/SE						
10 NCAC 03R .3079		11-21 NCR 1655	12-04 NCR 246	S/L/SE						
10 NCAC 03R .3080		11-21 NCR 1655	12-04 NCR 246	*						
10 NCAC 03R .3081		11-21 NCR 1655	12-04 NCR 246	*						
10 NCAC 03R .3082		11-21 NCR 1655	12-04 NCR 246	*						
10 NCAC 03R .3083		11-21 NCR 1655	12-04 NCR 246	*						
10 NCAC 03R .3084		11-21 NCR 1655	12-04 NCR 246	*						
10 NCAC 03R .3085		11-21 NCR 1655	12-04 NCR 246	*						
10 NCAC 03R .3086		11-21 NCR 1655	12-04 NCR 246	*						
10 NCAC 03R .3087		11-21 NCR 1655	12-04 NCR 246	*						
10 NCAC 03R .3088		11-21 NCR 1655	12-04 NCR 246	*						
10 NCAC 03R .6001	11-22 NCR 1704									
<b>Medical Assistance</b>										
Medicaid Disproportionate Share List										
10 NCAC 26B .0113	10-16 NCR 1721		11-28 NCR 2118	S/L	Agency withdrew	09/18/97				12-02 NCR 46
10 NCAC 26B .0123		11-19 NCR 1436	11-24 NCR 1824	*	Approve	06/19/97	*		12-03 NCR 213	
10 NCAC 26D .0110	12-06 NCR 444									
10 NCAC 26G .0707	11-08 NCR 450									
10 NCAC 26H .0101	11-14 NCR 1108	11-15 NCR 1205	11-18 NCR 1371	*	Approve	04/17/97			11-29 NCR 2211	
10 NCAC 26H .0102	11-14 NCR 1108									
10 NCAC 26H .0104	11-16 NCR 1268									
10 NCAC 26H .0212		11-15 NCR 1205	11-23 NCR 1781	S/L	Approve	05/15/97	*		11-30 NCR 2314	
10 NCAC 26H .0213		11-15 NCR 1205	Temp Expired							
10 NCAC 26H .0213		11-15 NCR 1205	Temp Expired							
10 NCAC 26H .0213	11-18 NCR 1368		12-07 NCR 511	S/SE						
10 NCAC 26H .0213		11-26 NCR 1997								
10 NCAC 26H .0401	12-08 NCR 618									

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					Action	Date				
10 NCAC 2611 .0506	10:21 NCR 2686									
10 NCAC 2611 .0506		11:19 NCR 1438	11:29 NCR 2205	S/L/SE	Approve	09/18/97	*			
10 NCAC 26H .0602		12:04 NCR 313								
10 NCAC 26K .0106	12:05 NCR 337									
10 NCAC 26K .0106	12:06 NCR 444									
10 NCAC 26M .0201	12:06 NCR 444									
10 NCAC 26M .0202	12:06 NCR 444									
10 NCAC 26M .0203	12:05 NCR 337									
10 NCAC 26M .0203	12:06 NCR 444									
10 NCAC 26M .0204	12:06 NCR 444									
10 NCAC 50A .0604	12:06 NCR 444									
10 NCAC 50B .0202		11:10 NCR 841	11:28 NCR 2118	*	Approve	07/17/97	*		12:04 NCR 317	
10 NCAC 50B .0202	12:06 NCR 444									
10 NCAC 50B .0404		11:10 NCR 841	11:28 NCR 2118	L	Approve	07/17/97			12:04 NCR 317	
10 NCAC 50B .0409		11:10 NCR 841	11:28 NCR 2118	*	Approve	07/17/97			12:04 NCR 317	
10 NCAC 50D .0101	10:24 NCR 3057	11:04 NCR 196	Temp Expired							
10 NCAC 50D .0102	10:24 NCR 3057	11:04 NCR 196	Temp Expired							
10 NCAC 50D .0103	10:24 NCR 3057	11:04 NCR 196	Temp Expired							
10 NCAC 50D .0201	10:24 NCR 3057	11:04 NCR 196	Temp Expired							
10 NCAC 50D .0301	10:24 NCR 3057	11:04 NCR 196	Temp Expired							
10 NCAC 50D .0302	10:24 NCR 3057	11:04 NCR 196	Temp Expired							
10 NCAC 50D .0401	10:24 NCR 3057	11:04 NCR 196	Temp Expired							
10 NCAC 50D .0402	10:24 NCR 3057	11:04 NCR 196	Temp Expired							
10 NCAC 50D .0501	10:24 NCR 3057	11:04 NCR 196	Temp Expired							
10 NCAC 50D .0502	10:24 NCR 3057	11:04 NCR 196	Temp Expired							
10 NCAC 50D .0503	10:24 NCR 3057	11:04 NCR 196	Temp Expired							
<b>Medical Care Commission</b>										
10 NCAC 03B	11:16 NCR 1268									
10 NCAC 03B .1001		11:20 NCR 1560	11:29 NCR 2187	*						
10 NCAC 03B .1002		11:20 NCR 1560	11:29 NCR 2187	*						



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					Action	Date				
10 NCAC 03C .3707	11-20 NCR 1534		11-29 NCR 2187	*						
10 NCAC 03D .0801	11-23 NCR 1779		12-05 NCR 339	*						
10 NCAC 03D .0802	11-23 NCR 1779		12-05 NCR 339	S/L						
10 NCAC 03D .0803	11-23 NCR 1779		12-05 NCR 339	*						
10 NCAC 03D .0806	11-23 NCR 1779		12-05 NCR 339	*						
10 NCAC 03D .0901	11-23 NCR 1779		12-05 NCR 339	*						
10 NCAC 03D .0902	11-23 NCR 1779		12-05 NCR 339	*						
10 NCAC 03D .0904	11-23 NCR 1779		12-05 NCR 339	*						
10 NCAC 03D .0905	11-23 NCR 1779		12-05 NCR 339	*						
10 NCAC 03D .0907	11-23 NCR 1779		12-05 NCR 339	*						
10 NCAC 03D .0908	11-23 NCR 1779		12-05 NCR 339	*						
10 NCAC 03D .0909	11-23 NCR 1779		12-05 NCR 339	*						
10 NCAC 03D .0911	11-23 NCR 1779		12-05 NCR 339	*						
10 NCAC 03D .0913	11-23 NCR 1779		12-05 NCR 339	*						
10 NCAC 03D .0915	11-23 NCR 1779		12-05 NCR 339	*						
10 NCAC 03D .0916	11-23 NCR 1779		12-05 NCR 339	*						
10 NCAC 03D .0917	11-23 NCR 1779		12-05 NCR 339	*						
10 NCAC 03D .0918	11-23 NCR 1779		12-05 NCR 339	*						
10 NCAC 03D .0919	11-23 NCR 1779		12-05 NCR 339	*						
10 NCAC 03D .0920	11-23 NCR 1779		12-05 NCR 339	*						
10 NCAC 03D .0921	11-23 NCR 1779		12-05 NCR 339	*						
10 NCAC 03D .0922	11-23 NCR 1779		12-05 NCR 339	*						
10 NCAC 03D .0923	11-23 NCR 1779		12-05 NCR 339	*						
10 NCAC 03D .0924	11-23 NCR 1779		12-05 NCR 339	S/L						
10 NCAC 03D .0925	11-23 NCR 1779		12-05 NCR 339	*						
10 NCAC 03D .0926	11-23 NCR 1779		12-05 NCR 339	*						
10 NCAC 03D .1001	11-23 NCR 1779		12-05 NCR 339	S/L						
10 NCAC 03D .1002	11-23 NCR 1779		12-05 NCR 339	S/L						
10 NCAC 03D .1003	11-23 NCR 1779		12-05 NCR 339	S/L						
10 NCAC 03D .1004	11-23 NCR 1779		12-05 NCR 339	*						

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10 NCAC 03D .1103	11:23 NCR 1779		12:05 NCR 339	*						
10 NCAC 03D .1202	11:23 NCR 1779		12:05 NCR 339	S/L						
10 NCAC 03D .1203	11:23 NCR 1779		12:05 NCR 339	*						
10 NCAC 03D .1204	11:23 NCR 1779		12:05 NCR 339	*						
10 NCAC 03D .1205	11:23 NCR 1779		12:05 NCR 339	S/L						
10 NCAC 03D .1206	11:23 NCR 1779		12:05 NCR 339	S/L						
10 NCAC 03D .1301	11:23 NCR 1779		12:05 NCR 339	*						
10 NCAC 03D .1302	11:23 NCR 1779		12:05 NCR 339	*						
10 NCAC 03D .1401	11:23 NCR 1779		12:05 NCR 339	*						
10 NCAC 03D .1403	11:23 NCR 1779		12:05 NCR 339	*						
10 NCAC 03D .1500	11:23 NCR 1779		12:05 NCR 339	*						
10 NCAC 03D .2001	10:18 NCR 2399		11:29 NCR 2187	*						
10 NCAC 03D .2101	10:18 NCR 2399		11:29 NCR 2187	*						
10 NCAC 03D .2102	10:18 NCR 2399		11:29 NCR 2187	*						
10 NCAC 03D .2103	10:18 NCR 2399		11:29 NCR 2187	*						
10 NCAC 03D .2104	10:18 NCR 2399		11:29 NCR 2187	*						
10 NCAC 03D .2105	10:18 NCR 2399		11:29 NCR 2187	*						
10 NCAC 03D .2106	10:18 NCR 2399		11:29 NCR 2187	*						
10 NCAC 03D .2201	10:18 NCR 2399		11:29 NCR 2187	*						
10 NCAC 03D .2202	10:18 NCR 2399		11:29 NCR 2187	*						
10 NCAC 03D .2203	10:18 NCR 2399		11:29 NCR 2187	*						
10 NCAC 03D .2301	10:18 NCR 2399		11:29 NCR 2187	*						
10 NCAC 03D .2302	10:18 NCR 2399		11:29 NCR 2187	*						
10 NCAC 03D .2303	10:18 NCR 2399		11:29 NCR 2187	*						
10 NCAC 03D .2401	10:18 NCR 2399		11:29 NCR 2187	*						
10 NCAC 03M .0105	11:23 NCR 1779		12:06 NCR 459	*						
10 NCAC 03M .0205	11:23 NCR 1779		12:06 NCR 459	*						
<b>Mental Health, Developmental Disabilities and Substance Abuse Services</b>										
10 NCAC 14V .3402	11:08 NCR 449		11:14 NCR 1124	*	Withdrawn	01/16/97				
			11:24 NCR 1822	*	Approve	05/15/97	*			11:30 NCR 2314

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10 NCAC 14V .3803	11-08 NCR 449		11-14 NCR 1124	*	Withdrawn	01/16/97				
10 NCAC 14V .5602	11-08 NCR 449		11-24 NCR 1822	*	Approve	05/15/97	*		11-30 NCR 2314	
10 NCAC 15A .0128	11-08 NCR 449		11-14 NCR 1124	*	Withdrawn	01/16/97			11-30 NCR 2314	
			11-24 NCR 1822	*	Approve	05/15/97				
10 NCAC 15A .0129	11-08 NCR 449		11-14 NCR 1124	*	Withdrawn	01/16/97			11-30 NCR 2314	
			11-24 NCR 1822	*	Approve	05/15/97				
10 NCAC 18W .0201	10-15 NCR 1478		11-14 NCR 1124	S	Approve	01/16/97	*		11-30 NCR 2314	
			11-24 NCR 1822	S	Object	02/20/97	*			
10 NCAC 18W .0202	10-15 NCR 1478		11-14 NCR 1124	S	Approve	01/16/97	*			
10 NCAC 18W .0203	10-15 NCR 1478		11-14 NCR 1124	S	Object	01/16/97				
10 NCAC 18W .0204	10-15 NCR 1478		11-14 NCR 1124	S	Approve	02/20/97	*			
10 NCAC 18W .0205	10-15 NCR 1478		11-14 NCR 1124	S	Approve	01/16/97	*			
10 NCAC 18W .0206	10-15 NCR 1478		11-14 NCR 1124	S	Object	01/16/97	*			
10 NCAC 18W .0207	10-15 NCR 1478		11-14 NCR 1124	S	Approve	02/20/97	*			
10 NCAC 18W .0208	10-15 NCR 1478		11-14 NCR 1124	S	Approve	01/16/97	*			
10 NCAC 18W .0209	10-15 NCR 1478		11-14 NCR 1124	S	Object	01/16/97	*			
10 NCAC 18W .0210	10-15 NCR 1478		11-14 NCR 1124	S	Approve	01/16/97	*			
10 NCAC 18W .0211	10-15 NCR 1478		11-14 NCR 1124	S	Approve	01/16/97	*			
10 NCAC 18W .0212	10-15 NCR 1478		11-14 NCR 1124	S	Object	01/16/97	*			
10 NCAC 18W .0213	10-15 NCR 1478		11-14 NCR 1124	S	Approve	02/20/97	*			
10 NCAC 18W .0214	10-15 NCR 1478		11-14 NCR 1124	S	Approve	01/16/97	*			
10 NCAC 18W .0215	10-15 NCR 1478		11-14 NCR 1124	S	Approve	01/16/97	*			
10 NCAC 18W .0216	10-15 NCR 1478		11-14 NCR 1124	S	Object	01/16/97	*			
10 NCAC 18W .0217	10-15 NCR 1478		11-14 NCR 1124	S	Approve	02/20/97	*			
10 NCAC 18W .0218	10-15 NCR 1478		11-14 NCR 1124	S	Object	01/16/97	*			
10 NCAC 18W .0219	10-15 NCR 1478		11-14 NCR 1124	S	Approve	01/16/97	*			
10 NCAC 4511 .0200	11-08 NCR 449		11-14 NCR 1124	S	Object	01/16/97	*			
10 NCAC 4511 .0203	11-08 NCR 449		11-14 NCR 1124	S	Approve	02/20/97	*			
11-29 NCR 2208	11-29 NCR 2208		11-29 NCR 2208	*	Approve	01/16/97	*			

Secretary of Human Resources

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					Action	Date				
10 NCAC 14V.7006		12:01 NCR 31	12:07 NCR 511	*						
10 NCAC 14V.7101	11:30 NCR 2300		12:06 NCR 459	*						
10 NCAC 14V.7102	11:30 NCR 2300		12:06 NCR 459	*						
10 NCAC 14V.7103	11:30 NCR 2300		12:06 NCR 459	S						
10 NCAC 14V.7104	11:30 NCR 2300		12:06 NCR 459	S						
10 NCAC 14V.7105	11:30 NCR 2300		12:06 NCR 459	S						
<b>Social Services Commission</b>										
10 NCAC 35E.0101		11:16 NCR 1288	11:30 NCR 2301	*	Approve	08/21/97	*		12:07 NCR 561	
10 NCAC 35E.0105		11:16 NCR 1288	11:30 NCR 2301	*	Approve	08/21/97	*		12:07 NCR 561	
10 NCAC 35E.0106		11:16 NCR 1288	11:30 NCR 2301	*	Approve	08/21/97	*		12:07 NCR 561	
10 NCAC 35E.0308		11:16 NCR 1288	11:30 NCR 2301	*	Approve	08/21/97	*		12:07 NCR 561	
10 NCAC 411.0100	10:17 NCR 2228									
10 NCAC 411.0102	10:17 NCR 2228		10:21 NCR 2687	*						
10 NCAC 42J.0001		11:16 NCR 1288	11:30 NCR 2301	*	Approve	08/21/97	*		12:07 NCR 561	
10 NCAC 42J.0004		11:16 NCR 1288	11:30 NCR 2301	*	Approve	08/21/97			12:07 NCR 561	
10 NCAC 42J.0005		11:16 NCR 1288	11:30 NCR 2301	*	Object	08/21/97	*			
					Approve	09/18/97				
<b>Vocational Rehabilitation Services</b>										
10 NCAC 20C.0200	12:08 NCR 618									
10 NCAC 20C.0600	12:08 NCR 618									
<b>INSURANCE</b>										
<b>N.C. Home Inspector Licensure Board</b>										
11 NCAC 08.1001		11:15 NCR 1212	11:19 NCR 1416	*	Agency Withdrawn	03/97				11:27 NCR 2049
			11:25 NCR 1906	*	Approve	06/19/97			12:03 NCR 213	Temp Filed over obj
11 NCAC 08.1002		11:15 NCR 1212	11:19 NCR 1416	*	Agency Withdrawn	03/97				Temp Filed over obj
			11:25 NCR 1906	*	Approve	06/19/97			12:03 NCR 213	Temp Filed over obj
11 NCAC 08.1003		11:15 NCR 1212	11:19 NCR 1416	*	Agency Withdrawn	03/97				Temp Filed over obj
			11:25 NCR 1906	*	Approve	06/19/97			12:03 NCR 213	Temp Filed over obj
11 NCAC 08.1004		11:15 NCR 1212	11:19 NCR 1416	*	Agency Withdrawn	03/97				Temp Filed over obj
			11:25 NCR 1906	*	Approve	06/19/97	*		12:03 NCR 213	Temp Filed over obj
11 NCAC 08.1005		11:15 NCR 1212	11:19 NCR 1416	*	Agency Withdrawn	03/97				Temp Filed over obj
			11:25 NCR 1906	*	Approve	06/19/97			12:03 NCR 213	Temp Filed over obj
11 NCAC 08.1006		11:15 NCR 1212	11:19 NCR 1416	*	Agency Withdrawn	03/97				Temp Filed over obj
			11:25 NCR 1906	*	Approve	06/19/97			12:03 NCR 213	Temp Filed over obj
11 NCAC 08.1007		11:15 NCR 1212	11:19 NCR 1416	*	Agency Withdrawn	03/97				Temp Filed over obj

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11 NCAC 08 .1203		11:15 NCR 1212	11:25 NCR 1906	*	Approve	06/19/97			12:03 NCR 213	Temp Filed over obj
			11:19 NCR 1416	*	Agency Withdrawn 03/97	06/19/97			12:03 NCR 213	Temp Filed over obj
11 NCAC 08 .1204		11:15 NCR 1212	11:25 NCR 1906	*	Approve	06/19/97			12:03 NCR 213	Temp Filed over obj
			11:19 NCR 1416	*	Agency Withdrawn 03/97	06/19/97			12:03 NCR 213	Temp Filed over obj
11 NCAC 08 .1205		11:15 NCR 1212	11:25 NCR 1906	*	Approve	06/19/97			12:03 NCR 213	Temp Filed over obj
			11:19 NCR 1416	*	Agency Withdrawn 03/97	06/19/97			12:03 NCR 213	Temp Filed over obj
11 NCAC 08 .1206		11:15 NCR 1212	11:25 NCR 1906	*	Approve	06/19/97			12:03 NCR 213	Temp Filed over obj
			11:19 NCR 1416	*	Agency Withdrawn 03/97	06/19/97			12:03 NCR 213	Temp Filed over obj
11 NCAC 08 .1207		11:15 NCR 1212	11:25 NCR 1906	*	Approve	06/19/97			12:03 NCR 213	Temp Filed over obj
			11:19 NCR 1416	*	Agency Withdrawn 03/97	06/19/97			12:03 NCR 213	Temp Filed over obj
11 NCAC 08 .1208		11:15 NCR 1212	11:25 NCR 1906	*	Approve	06/19/97			12:03 NCR 213	Temp Filed over obj
			11:19 NCR 1416	*	Agency Withdrawn 03/97	06/19/97			12:03 NCR 213	Temp Filed over obj
11 NCAC 08 .1209		11:15 NCR 1212	11:25 NCR 1906	*	Approve	06/19/97			12:03 NCR 213	Temp Filed over obj
			11:19 NCR 1416	*	Agency Withdrawn 03/97	06/19/97			12:03 NCR 213	Temp Filed over obj
11 NCAC 10 .0602		11:15 NCR 1223	11:25 NCR 1906	*	Approve	06/19/97	*		12:03 NCR 213	Temp Filed over obj
			11:19 NCR 1426	*	Approve	03/20/97	*		11:26 NCR 2004	Temp Filed over obj
11 NCAC 10 .0603		11:15 NCR 1223	11:19 NCR 1426	*	Approve	03/20/97	*		11:26 NCR 2004	Temp Filed over obj
11 NCAC 10 .0606		11:15 NCR 1223	11:19 NCR 1426	*	Approve	03/20/97	*		11:26 NCR 2004	Temp Filed over obj
<b>JUSTICE</b>										
<b>Alarm Systems Licensing Board</b>										
12 NCAC 11	11:30 NCR 2300									
12 NCAC 11 .0202	10:24 NCR 3057		11:14 NCR 1136	*	Tabled	06/19/97			12:07 NCR 561	
					Approve	08/21/97				
12 NCAC 11 .0210	12:08 NCR 618									
<b>Criminal Justice Education and Training Standards Commission</b>										
12 NCAC 09A .0103	11:14 NCR 1109		11:20 NCR 1539	*	Approve	04/17/97			11:29 NCR 2211	
12 NCAC 09B .0102	11:14 NCR 1109		11:20 NCR 1539	*	Object	04/17/97				
					Approve	05/15/97	*		11:30 NCR 2314	
12 NCAC 09B .0111	11:14 NCR 1109		11:20 NCR 1539	*	Approve	04/17/97			11:29 NCR 2211	
12 NCAC 09B .0206	11:14 NCR 1109		11:20 NCR 1539	*	Approve	04/17/97			11:29 NCR 2211	
12 NCAC 09B .0224	11:14 NCR 1109		11:20 NCR 1539	*	Approve	04/17/97			11:29 NCR 2211	
12 NCAC 09B .0225	11:14 NCR 1109		11:20 NCR 1539	*	Approve	04/17/97			11:29 NCR 2211	
12 NCAC 09B .0409	11:14 NCR 1109		11:20 NCR 1539	*	Approve	04/17/97			11:29 NCR 2211	
12 NCAC 09C .0304	11:14 NCR 1109		11:20 NCR 1539	*	Approve	04/17/97			11:29 NCR 2211	
12 NCAC 09C .0307	11:14 NCR 1109		11:20 NCR 1539	*	Approve	04/17/97	*		11:29 NCR 2211	
12 NCAC 09C .0309	11:14 NCR 1109		11:20 NCR 1539	*	Approve	04/17/97			11:29 NCR 2211	

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12 NCAC 09C .0601	11-14 NCR 1109		11-20 NCR 1539	*	Approve	04/17/97			11-29 NCR 2211	
12 NCAC 09C .0602	11-14 NCR 1109		11-20 NCR 1539	*	Approve	04/17/97			11-29 NCR 2211	
12 NCAC 09C .0603	11-14 NCR 1109		11-20 NCR 1539	*	Approve	04/17/97			11-29 NCR 2211	
12 NCAC 09C .0604	11-14 NCR 1109		11-20 NCR 1539	*	Approve	04/17/97			11-29 NCR 2211	
12 NCAC 09C .0605	11-14 NCR 1109		11-20 NCR 1539	*	Approve	04/17/97			11-29 NCR 2211	
12 NCAC 09C .0606	11-14 NCR 1109		11-20 NCR 1539	*	Approve	04/17/97			11-29 NCR 2211	
12 NCAC 09C .0607	11-14 NCR 1109		11-20 NCR 1539	*	Approve	04/17/97			11-29 NCR 2211	
12 NCAC 09C .0608	11-14 NCR 1109		11-20 NCR 1539	*	Approve	04/17/97			11-29 NCR 2211	
<b>Private Protective Services Board</b>										
12 NCAC 07D .11-10 NCR 818										
12 NCAC 07D .11-16 NCR 1268										
12 NCAC 07D .0100	11-16 NCR 1268									
12 NCAC 07D .0104	11-16 NCR 1268									
12 NCAC 07D .0201	11-10 NCR 818		12-08 NCR 622	*						
12 NCAC 07D .0204	11-14 NCR 1108		12-08 NCR 622	*						
12 NCAC 07D .0504	11-10 NCR 818		12-08 NCR 622	*						
12 NCAC 07D .0701	11-10 NCR 818		12-08 NCR 622	*						
12 NCAC 07D .0801	11-10 NCR 818		12-08 NCR 622	*						
12 NCAC 07D .0902	11-10 NCR 818		12-08 NCR 622	*						
12 NCAC 07D .1106	11-14 NCR 1108		12-08 NCR 622	*						
<b>Sheriffs' Education and Training Standards Commission</b>										
12 NCAC 10B .0101	12-04 NCR 242		12-08 NCR 624	*						
12 NCAC 10B .0103	12-07 NCR 508									
12 NCAC 10B .0107	12-04 NCR 242		12-08 NCR 624	*						
12 NCAC 10B .0202	12-04 NCR 242		12-08 NCR 624	*						
12 NCAC 10B .0204	12-04 NCR 242		12-08 NCR 624	*						
12 NCAC 10B .0206	12-04 NCR 242		12-08 NCR 624	*						
12 NCAC 10B .0304	12-04 NCR 242		12-08 NCR 624	*						
12 NCAC 10B .0401	12-07 NCR 508									
12 NCAC 10B .0402	12-07 NCR 508									

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12 NCAC 10B .0403	12-07 NCR 508									
12 NCAC 10B .0406	12-07 NCR 508									
12 NCAC 10B .0407	12-07 NCR 508									
12 NCAC 10B .0408	12-07 NCR 508									
12 NCAC 10B .0409	12-07 NCR 508									
12 NCAC 10B .0505	12-04 NCR 242		12-08 NCR 624	*						
12 NCAC 10B .0601	12-04 NCR 242		12-08 NCR 624	*						
12 NCAC 10B .0603	12-04 NCR 242		12-08 NCR 624	*						
12 NCAC 10B .0605	12-04 NCR 242		12-08 NCR 624	*						
12 NCAC 10B .0701	12-07 NCR 508									
12 NCAC 10B .0702	12-04 NCR 242		12-08 NCR 624	*						
12 NCAC 10B .0702	12-07 NCR 508									
12 NCAC 10B .0703	12-04 NCR 242		12-08 NCR 624	*						
12 NCAC 10B .0704	12-04 NCR 242		12-08 NCR 624	*						
12 NCAC 10B .0705	12-04 NCR 242		12-08 NCR 624	*						
12 NCAC 10B .0706	12-04 NCR 242		12-08 NCR 624	*						
12 NCAC 10B .0707	12-04 NCR 242		12-08 NCR 624	*						
12 NCAC 10B .0801	12-04 NCR 242		12-08 NCR 624	*						
12 NCAC 10B .0802	12-04 NCR 242		12-08 NCR 624	*						
12 NCAC 10B .0903	12-04 NCR 242		12-08 NCR 624	*						
12 NCAC 10B .0908	12-04 NCR 242		12-08 NCR 624	*						
12 NCAC 10B .0909	12-04 NCR 242		12-08 NCR 624	*						
12 NCAC 10B .0910	12-04 NCR 242		12-08 NCR 624	*						
12 NCAC 10B .0911	12-04 NCR 242		12-08 NCR 624	*						
12 NCAC 10B .1002	12-04 NCR 242		12-08 NCR 624	*						
12 NCAC 10B .1004	12-04 NCR 242		12-08 NCR 624	*						
12 NCAC 10B .1005	12-04 NCR 242		12-08 NCR 624	*						
12 NCAC 10B .1006	12-04 NCR 242		12-08 NCR 624	*						
12 NCAC 10B .1101	12-04 NCR 242		12-08 NCR 624	*						
12 NCAC 10B .1101	12-07 NCR 508		12-08 NCR 624	*						



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12 NCAC 10B .1102	12:04 NCR 242		12:08 NCR 624	*						
12 NCAC 10B .1102	12:07 NCR 508									
12 NCAC 10B .1103	12:04 NCR 242		12:08 NCR 624	*						
12 NCAC 10B .1103	12:07 NCR 508									
12 NCAC 10B .1104	12:04 NCR 242		12:08 NCR 624	*						
12 NCAC 10B .1104	12:07 NCR 508									
12 NCAC 10B .1105	12:04 NCR 242		12:08 NCR 624	*						
12 NCAC 10B .1202	12:04 NCR 242		12:08 NCR 624	*						
12 NCAC 10B .1204	12:04 NCR 242		12:08 NCR 624	*						
12 NCAC 10B .1205	12:04 NCR 242		12:08 NCR 624	*						
12 NCAC 10B .1206	12:04 NCR 242		12:08 NCR 624	*						
12 NCAC 10B .1301	12:07 NCR 508									
12 NCAC 10B .1302	12:07 NCR 508									
12 NCAC 10B .1303	12:07 NCR 508									
12 NCAC 10B .1304	12:07 NCR 508									
12 NCAC 10B .2002	12:07 NCR 508									
12 NCAC 10B .2101	12:07 NCR 508									
12 NCAC 10B .2102	12:07 NCR 508									
12 NCAC 10B .2104	12:07 NCR 508									
12 NCAC 10B .2105	12:07 NCR 508									
<b>State Bureau of Investigation/Division of Criminal Information</b>										
12 NCAC 04E .0103	11:11 NCR 881		11:17 NCR 1339	*	Approve	05/15/97			11:30 NCR 2314	
12 NCAC 04E .0104	11:17 NCR 1336		11:22 NCR 1710	*	Approve	07/17/97	*		12:04 NCR 317	
12 NCAC 04E .0401	11:17 NCR 1336		11:22 NCR 1710	*	Approve	07/17/97			12:04 NCR 317	
12 NCAC 04E .0404	11:17 NCR 1336		11:22 NCR 1710	*	Approve	07/17/97	*		12:04 NCR 317	
12 NCAC 04E .0405	11:17 NCR 1336		11:22 NCR 1710	*	Approve	07/17/97	*		12:04 NCR 317	

## LABOR

### Boiler & Pressure Vessel

13 NCAC 13 .0213

11:25 NCR 1918

### Occupational Safety and Health

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*Verbatim Adoption Federal Standards										
*13 NCAC 07F .0101										12:08 NCR 613
*13 NCAC 07F .0501										12:08 NCR 613
*13 NCAC 07F .0502										12:08 NCR 613
13 NCAC 07A .0302	11:26 NCR 1984		12:03 NCR 170	*						
13 NCAC 07A .0708	11:26 NCR 1984		12:03 NCR 170	*						
13 NCAC 07A .0900	11:11 NCR 881									
13 NCAC 07F	11:03 NCR 106									
13 NCAC 07F .0101	11:24 NCR 1817		12:05 NCR 354	*						
13 NCAC 07F .0101	11:26 NCR 1984		12:03 NCR 170	*						
13 NCAC 07F .0102	11:26 NCR 1984		12:03 NCR 170	*						
13 NCAC 07F .0201	11:03 NCR 106									
13 NCAC 07F .0201	11:09 NCR 568									
13 NCAC 07F .0201	11:24 NCR 1817		12:02 NCR 60	*						
13 NCAC 07F .0201	11:26 NCR 1984		12:03 NCR 170	*						
13 NCAC 07F .0301	11:03 NCR 106									
13 NCAC 07F .0301	11:26 NCR 1984		12:03 NCR 170	*						
13 NCAC 07F .0426	11:26 NCR 1984		12:03 NCR 170	*						
13 NCAC 07F .0501	11:26 NCR 1984		12:03 NCR 170	*						
13 NCAC 07F .0502	11:26 NCR 1984		12:03 NCR 170	*						
13 NCAC 16 .0101	11:26 NCR 1984		12:05 NCR 412	*						
13 NCAC 16 .0102	11:26 NCR 1984		12:05 NCR 412	*						
13 NCAC 16 .0103	11:26 NCR 1984		12:05 NCR 412	*						
13 NCAC 16 .0201	11:26 NCR 1984		12:05 NCR 412	*						
13 NCAC 16 .0202	11:26 NCR 1984		12:05 NCR 412	*						
13 NCAC 16 .0203	11:26 NCR 1984		12:05 NCR 412	*						
13 NCAC 16 .0204	11:26 NCR 1984		12:05 NCR 412	*						
13 NCAC 16 .0205	11:26 NCR 1984		12:05 NCR 412	*						
13 NCAC 16 .0206	11:26 NCR 1984		12:05 NCR 412	*						
13 NCAC 16 .0207	11:26 NCR 1984		12:05 NCR 412	*						

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13 NCAC 16 .0208	11-26 NCR 1984		12-05 NCR 412	*						
13 NCAC 16 .0301	11-26 NCR 1984		12-05 NCR 412	*						
13 NCAC 16 .0302	11-26 NCR 1984		12-05 NCR 412	*						
13 NCAC 16 .0303	11-26 NCR 1984		12-05 NCR 412	*						
13 NCAC 16 .0401	11-26 NCR 1984		12-05 NCR 412	*						
13 NCAC 16 .0402	11-26 NCR 1984		12-05 NCR 412	*						
13 NCAC 16 .0501	11-26 NCR 1984		12-05 NCR 412	*						
13 NCAC 16 .0502	11-26 NCR 1984		12-05 NCR 412	*						
13 NCAC 16 .0601	11-26 NCR 1984		12-05 NCR 412	*						
13 NCAC 16 .0602	11-26 NCR 1984		12-05 NCR 412	*						
<b>LANDSCAPE ARCHITECTS, BOARD OF</b>										
21 NCAC 26 .0104		12-08 NCR 730								
21 NCAC 26 .0105		12-08 NCR 730								
21 NCAC 26 .0302		12-08 NCR 730								
21 NCAC 26 .0506		12-08 NCR 730								
21 NCAC 26 .0507		12-08 NCR 730								
21 NCAC 26 .0508		12-08 NCR 730								
21 NCAC 26 .0509		12-08 NCR 730								
<b>MEDICAL BOARD</b>										
21 NCAC 32B	11-18 NCR 1369									
21 NCAC 32B	12-04 NCR 245									
21 NCAC 32F .0103		11-18 NCR 1386 Temp Expired	12-04 NCR 294	*						
21 NCAC 32H .0102	11-26 NCR 1986		12-04 NCR 294	*						
21 NCAC 32H .0201	11-26 NCR 1986		12-04 NCR 294	*						
21 NCAC 32H .0202	11-26 NCR 1986		12-04 NCR 294	*						
21 NCAC 32H .0203	11-26 NCR 1986		12-04 NCR 294	*						
21 NCAC 32H .0301	11-26 NCR 1986		12-04 NCR 294	*						
21 NCAC 32H .0302	11-26 NCR 1986		12-04 NCR 294	*						
21 NCAC 32H .0303	11-26 NCR 1986		12-04 NCR 294	*						

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21 NCAC 32H .0401	11:26 NCR 1986		12:04 NCR 294	*						
21 NCAC 32H .0402	11:26 NCR 1986		12:04 NCR 294	*						
21 NCAC 32H .0402		12:04 NCR 314								
21 NCAC 32H .0403	11:26 NCR 1986		12:04 NCR 294	*						
21 NCAC 32H .0404	11:26 NCR 1986		12:04 NCR 294	*						
21 NCAC 32H .0405	11:26 NCR 1986		12:04 NCR 294	*						
21 NCAC 32H .0406	11:26 NCR 1986		12:04 NCR 294	L						
21 NCAC 32H .0407	11:26 NCR 1986		12:04 NCR 294	*						
21 NCAC 32H .0408	11:26 NCR 1986		12:04 NCR 294	*						
21 NCAC 32H .0409	11:26 NCR 1986		12:04 NCR 294	*						
21 NCAC 32H .0501	11:26 NCR 1986		12:04 NCR 294	*						
21 NCAC 32H .0502	11:26 NCR 1986		12:04 NCR 294	*						
21 NCAC 32H .0503	11:26 NCR 1986		12:04 NCR 294	*						
21 NCAC 32H .0504	11:26 NCR 1986		12:04 NCR 294	L						
21 NCAC 32H .0505	11:26 NCR 1986		12:04 NCR 294	*						
21 NCAC 32H .0506	11:26 NCR 1986		12:04 NCR 294	*						
21 NCAC 32H .0507	11:26 NCR 1986		12:04 NCR 294	*						
21 NCAC 32H .0508	11:26 NCR 1986		12:04 NCR 294	*						
21 NCAC 32H .0601	11:26 NCR 1986		12:04 NCR 294	*						
21 NCAC 32H .0602	11:26 NCR 1986		12:04 NCR 294	*						
21 NCAC 32H .0801	11:26 NCR 1986		12:04 NCR 294	*						
21 NCAC 32H .0901	11:26 NCR 1986		12:04 NCR 294	*						
21 NCAC 32H .1004	11:26 NCR 1986		12:04 NCR 294	*						
21 NCAC 32O	11:18 NCR 1369		12:04 NCR 294	*						
<b>MORTUARY SCIENCE, BOARD OF</b>										
21 NCAC 34A .0201		12:07 NCR 556								
<b>NURSING, BOARD OF</b>										
21 NCAC 36 .0109	11:24 NCR 1821		11:28 NCR 2130	*						
21 NCAC 36 .0227	12:05 NCR 338									

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					Action	Date				
21 NCAC 36 .0320	11 14 NCR 1109		11:19 NCR 1428	*	Object	03/20/97				
21 NCAC 36 .0601	12:01 NCR 5		12:06 NCR 479	*	Approve	04/17/97	*		11:29 NCR 2211	
21 NCAC 36 .0602	12:01 NCR 5		12:06 NCR 479	*						
21 NCAC 36 .0603	12:01 NCR 5		12:06 NCR 479	*						
21 NCAC 36 .0604	12:01 NCR 5		12:06 NCR 479	*						
21 NCAC 36 .0605	12:01 NCR 5		12:06 NCR 479	*						
21 NCAC 36 .0606	12:01 NCR 5		12:06 NCR 479	*						
<b>NURSING HOME ADMINISTRATORS</b>										
21 NCAC 37D .0202		11 11 NCR 940	11 18 NCR 1372	*	Approve	04/17/97	*		11 29 NCR 2211	
21 NCAC 37G .0102		11 11 NCR 940	11:18 NCR 1372	*	Approve	04/17/97			11 29 NCR 2211	
<b>OPTICIANS, BOARD OF</b>										
21 NCAC 40 .0108		12:07 NCR 557								
<b>OPTOMETRY, BOARD OF</b>										
21 NCAC 42	12:06 NCR 453									
21 NCAC 42B .0107	11:18 NCR 1369		11 25 NCR 1917	*	Approve	09/18/97				
21 NCAC 42E .0102		12:06 NCR 487								
<b>PHARMACY, BOARD OF</b>										
21 NCAC 46 .1601	12:03 NCR 168		12:07 NCR 527	*						
21 NCAC 46 .1603	12:03 NCR 168		12:07 NCR 527	*						
21 NCAC 46 .1604	12:03 NCR 168		12:07 NCR 527	*						
21 NCAC 46 .1804	12:03 NCR 168		12:07 NCR 527	*						
21 NCAC 46 .1810	12:03 NCR 168		12:07 NCR 527	*						
21 NCAC 46 .1813	12:03 NCR 168		12:07 NCR 527	*						
21 NCAC 46 .2103	12:03 NCR 168		12:07 NCR 527	*						
21 NCAC 46 .2201	12:03 NCR 168		12:07 NCR 527	*						
21 NCAC 46 .2301	12:03 NCR 168		12:07 NCR 527	*						

## PHYSICAL THERAPY EXAMINERS

21 NCAC 48A .0003 12:08 NCR 619

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					Action	Date				
21 NCAC 48A .0005	12:08 NCR 619									
21 NCAC 48B .0002	12:08 NCR 619									
21 NCAC 48C .0101	12:08 NCR 619									
21 NCAC 48C .0102	12:08 NCR 619									
21 NCAC 48C .0103	12:08 NCR 619									
21 NCAC 48C .0301	12:08 NCR 619									
21 NCAC 48C .0302	12:08 NCR 619									
21 NCAC 48C .0401	12:08 NCR 619									
21 NCAC 48D .0002	12:08 NCR 619									
21 NCAC 48D .0003	12:08 NCR 619									
21 NCAC 48D .0004	12:08 NCR 619									
21 NCAC 48D .0005	12:08 NCR 619									
21 NCAC 48D .0006	12:08 NCR 619									
21 NCAC 48D .0009	12:08 NCR 619									
21 NCAC 48D .0010	12:08 NCR 619									
21 NCAC 48E .0101	12:08 NCR 619									
21 NCAC 48E .0104	12:08 NCR 619									
21 NCAC 48E .0110	12:08 NCR 619									
21 NCAC 48F .0002	12:08 NCR 619									
21 NCAC 48G .0202	12:08 NCR 619									
21 NCAC 48G .0403	12:08 NCR 619									
21 NCAC 48G .0404	12:08 NCR 619									
21 NCAC 48G .0504	12:08 NCR 619									
21 NCAC 48G .0512	12:08 NCR 619									
21 NCAC 48G .0601	12:08 NCR 619									
<b>PLUMBING, HEATING AND FIRE SPRINKLER CONTRACTORS, EXAMINERS OF</b>										
21 NCAC 50 .0106	12:07 NCR 509									
21 NCAC 50 .0202	12:07 NCR 509									
21 NCAC 50 .0301	12:07 NCR 509	12:07 NCR 557								
21 NCAC 50 .0306	12:07 NCR 509	12:07 NCR 557								

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					Action	Date				

21 NCAC 50 .0404	12-07 NCR 509	12-07 NCR 557								
21 NCAC 50 .0405	12-07 NCR 509									
21 NCAC 50 .0506	12-07 NCR 509	12-07 NCR 557								
21 NCAC 50 .0510	12-07 NCR 509									
21 NCAC 50 .0511	12-07 NCR 509	12-07 NCR 557								
21 NCAC 50 .1102	12-07 NCR 509	12-07 NCR 557								
21 NCAC 50 .1104	12-07 NCR 509									
21 NCAC 50 .1201	12-07 NCR 509									
21 NCAC 50 .1205	12-07 NCR 509									
21 NCAC 50 .1206	12-07 NCR 509									
21 NCAC 50 .1210	12-07 NCR 509									
21 NCAC 50 .1212	12-07 NCR 509									
21 NCAC 50 .1302	12-07 NCR 509									

## **PROFESSIONAL ENGINEERS AND LAND SURVEYORS**

21 NCAC 56	12-08 NCR 619									
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## **PSYCHOLOGY BOARD**

21 NCAC 54 .1611	12-05 NCR 338									
21 NCAC 54 .1612	12-05 NCR 338									
21 NCAC 54 .1613	12-05 NCR 338									
21 NCAC 54 .2006	12-05 NCR 338									
21 NCAC 54 .2010	12-05 NCR 338									
21 NCAC 54 .2104	12-05 NCR 338									
21 NCAC 54 .2301	12-05 NCR 338									
21 NCAC 54 .2302	12-05 NCR 338									
21 NCAC 54 .2303	12-05 NCR 338									
21 NCAC 54 .2304	12-05 NCR 338									
21 NCAC 54 .2305	12-05 NCR 338									
21 NCAC 54 .2306	12-05 NCR 338									
21 NCAC 54 .2307	12-05 NCR 338									

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					Action	Date				
21 NCAC 54 .2308	12:05 NCR 338									
21 NCAC 54 .2309	12:05 NCR 338									
21 NCAC 54 .2310	12:05 NCR 338									
21 NCAC 54 .2311	12:05 NCR 338									
21 NCAC 54 .2312	12:05 NCR 338									
21 NCAC 54 .2313	12:05 NCR 338									
21 NCAC 54 .2314	12:05 NCR 338									
21 NCAC 54 .2401	12:05 NCR 338									
21 NCAC 54 .2402	12:05 NCR 338									
21 NCAC 54 .2501	12:05 NCR 338									
21 NCAC 54 .2502	12:05 NCR 338									
21 NCAC 54 .2503	12:05 NCR 338									
21 NCAC 54 .2504	12:05 NCR 338									
21 NCAC 54 .2505	12:05 NCR 338									
21 NCAC 54 .2601	12:05 NCR 338									
21 NCAC 54 .2602	12:05 NCR 338									
21 NCAC 54 .2704	12:05 NCR 338									
21 NCAC 54 .2705	12:05 NCR 338									
21 NCAC 54 .2706	12:05 NCR 338									
<b>PUBLIC EDUCATION</b>										
16 NCAC 06C .0307			12:01 NCR 18	*						
16 NCAC 06C .0310		12:03 NCR 210	12:01 NCR 18	*						
16 NCAC 06D .0103			12:01 NCR 18	*						
16 NCAC 06D .0301			12:01 NCR 18	*						
16 NCAC 06D .0303			12:01 NCR 18	*						
16 NCAC 06D .0305			12:01 NCR 18	*						
16 NCAC 06D .0306			12:01 NCR 18	*						
16 NCAC 06E .0105		12:05 NCR 433								
16 NCAC 06G .0304			12:01 NCR 18	S						

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					Action	Date				
16 NCAC 06G .0305			12-01 NCR 18	*						
16 NCAC 06G .0306			12-01 NCR 18	*						
16 NCAC 06G .0307			12-01 NCR 18	S						
16 NCAC 06G .0308			12-01 NCR 18	S						
16 NCAC 06G .0309			12-01 NCR 18	S						
16 NCAC 06G .0401			12-01 NCR 18	*						
16 NCAC 06G .0402			12-01 NCR 18	*						
16 NCAC 06G .0403			12-01 NCR 18	*						
16 NCAC 06G .0404			12-01 NCR 18	*						
<b>Public School Administration, Standards Board for</b>										
16 NCAC 07 .0201		12-07 NCR 533								
16 NCAC 07 .0202		12-07 NCR 533								
16 NCAC 07 .0301		12-07 NCR 533								
16 NCAC 07 .0302		12-07 NCR 533								
16 NCAC 07 .0303		12-07 NCR 533								
<b>REAL ESTATE COMMISSION</b>										
21 NCAC 58A .0101	12-08 NCR 620									
21 NCAC 58A .0103	12-08 NCR 620									
21 NCAC 58A .0104	12-08 NCR 620									
21 NCAC 58A .0105	12-08 NCR 620									
21 NCAC 58A .0107	12-08 NCR 620									
21 NCAC 58A .0108	12-08 NCR 620									
21 NCAC 58A .0109	12-08 NCR 620									
21 NCAC 58A .0110	12-08 NCR 620									
21 NCAC 58A .0114	12-08 NCR 620									
21 NCAC 58A .0302	12-08 NCR 620									
21 NCAC 58A .0302	10-22 NCR 2829		11-03 NCR 114	*	Object Approve	12/19/96 01/16/97	*		11-22 NCR 1717	
21 NCAC 58A .0502	12-08 NCR 620									
21 NCAC 58A .0505	12-08 NCR 620									

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					Action	Date				
21 NCAC 58A .0506	12-08 NCR 620									
21 NCAC 58A .0601	12-08 NCR 620									
21 NCAC 58A .0613	12-08 NCR 620									
21 NCAC 58A .0614	12-08 NCR 620									
21 NCAC 58A .1501	10-22 NCR 2829		11-03 NCR 114	*	Object	12/19/96				
21 NCAC 58A .1502	10-22 NCR 2829		11-03 NCR 114	*	Approve	01/16/97	*		11-22 NCR 1717	
21 NCAC 58A .1702	12-08 NCR 620				Object	12/19/96	*			
21 NCAC 58B .0402	12-08 NCR 620				Approve	01/16/97	*		11-22 NCR 1717	
21 NCAC 58E .0407	12-08 NCR 620									
<b>REVENUE</b>										
17 NCAC 01C .0506			11-10 NCR 838	*	Approve	01/16/97	*		11-22 NCR 1717	12-04 NCR 228
Tax Review Board										12-05 NCR 336
Tax Review Board										
<b>SECRETARY OF STATE</b>										
18 NCAC 06 .1104		12-07 NCR 534								
18 NCAC 06 .1205		12-07 NCR 534								
18 NCAC 06 .1206		12-07 NCR 534								
18 NCAC 06 .1211		12-07 NCR 534								
18 NCAC 06 .1212		12-07 NCR 534								
18 NCAC 06 .1304		12-07 NCR 534								
18 NCAC 06 .1401		12-07 NCR 534								
18 NCAC 06 .1410		12-07 NCR 534								
18 NCAC 06 .1411		12-07 NCR 534								
18 NCAC 06 .1412		12-07 NCR 534								
18 NCAC 06 .1506		12-07 NCR 534								
18 NCAC 06 .1509		12-07 NCR 534								
18 NCAC 06 .1702		12-07 NCR 534								
18 NCAC 06 .1703		12-07 NCR 534								
18 NCAC 06 .1704		12-07 NCR 534								

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					Action	Date				
18 NCAC 06 .1705		12-07 NCR 534								
18 NCAC 06 .1706		12-07 NCR 534								
18 NCAC 06 .1712		12-07 NCR 534								
18 NCAC 06 .1713		12-07 NCR 534								
18 NCAC 06 .1714		12-07 NCR 534								
18 NCAC 06 .1801		12-07 NCR 534								
18 NCAC 06 .1802		12-07 NCR 534								
18 NCAC 06 .1803		12-07 NCR 534								
18 NCAC 06 .1804		12-07 NCR 534								
18 NCAC 06 .1805		12-07 NCR 534								
18 NCAC 06 .1806		12-07 NCR 534								
18 NCAC 06 .1809		12-07 NCR 534								
18 NCAC 06 .1811		12-07 NCR 534								
<b>SPEECH AND LANGUAGE PATHOLOGISTS AND AUDIOLOGIST, BOARD OF EXAMINERS</b>										
21 NCAC 64 .0209	11-23 NCR 1780		12-05 NCR 427	*						
21 NCAC 64 .0303	11-23 NCR 1780									
21 NCAC 64 .1001	11-23 NCR 1780		12-05 NCR 427	*						
21 NCAC 64 .1002	11-23 NCR 1780		12-05 NCR 427	*						
21 NCAC 64 .1003	11-23 NCR 1780		12-05 NCR 427	*						
21 NCAC 64 .1004	11-23 NCR 1780		12-05 NCR 427	*						
21 NCAC 64 .1005	11-23 NCR 1780		12-05 NCR 427	*						
<b>STATE PERSONNEL COMMISSION</b>										
25 NCAC 01D .2501	11-13 NCR 1062	Temp Expired	11-19 NCR 1429	*	Approve	09/18/97				
25 NCAC 01D .2503	11-13 NCR 1062	Temp Expired	11-19 NCR 1429	*	Approve	09/18/97	*			
25 NCAC 01D .2504	11-13 NCR 1062	Temp Expired	11-19 NCR 1429	*	Approve	09/18/97				
25 NCAC 01D .2505	11-13 NCR 1062	Temp Expired	11-19 NCR 1429	*	Approve	09/18/97				
25 NCAC 01D .2507	11-13 NCR 1062	Temp Expired	11-19 NCR 1429	*	Approve	09/18/97	*			
25 NCAC 01D .2508	11-13 NCR 1062	Temp Expired	11-19 NCR 1429	*	Approve	09/18/97				

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25 NCAC 01D .2509		Temp Expired 11:13 NCR 1062	11:19 NCR 1429	*	Approve	09/18/97				
25 NCAC 01D .2511		Temp Expired 11:13 NCR 1062	11:19 NCR 1429	*	Approve	09/18/97	*			
25 NCAC 01D .2513		Temp Expired 11:13 NCR 1062	11:19 NCR 1429	*	Approve	09/18/97	*			
25 NCAC 01D .2514		Temp Expired 11:13 NCR 1062	11:19 NCR 1429	*	Approve	09/18/97	*			
25 NCAC 01D .2516		Temp Expired 11:13 NCR 1062	11:19 NCR 1429	*						
25 NCAC 01E .0705	11:14 NCR 1110		11:19 NCR 1434	*	Approve	09/18/97	*			
25 NCAC 01E .0707	11:14 NCR 1110		11:19 NCR 1434	*	Approve	09/18/97	*			
25 NCAC 01E .0709	11:14 NCR 1110		11:19 NCR 1434	*	Approve	09/18/97				
<b>TRANSPORTATION</b>										
<b>Highways, Division of</b>										
19A NCAC 02B .0164	11:20 NCR 1537		11:26 NCR 1991	*	Object	07/17/97			12:07 NCR 561	
19A NCAC 02B .0242	11:26 NCR 1986		12:03 NCR 207	*	Approve	08/21/97				
19A NCAC 02B .0303	11:26 NCR 1986		12:03 NCR 207	*						
19A NCAC 02D .0415	11:20 NCR 1537		11:26 NCR 2004	*	Approve	07/17/97			12:04 NCR 317	
19A NCAC 02E .0218	12:05 NCR 337									
19A NCAC 02E .0219	12:05 NCR 337									
19A NCAC 02E .0220	12:05 NCR 337									
19A NCAC 02E .0221	12:05 NCR 337									
19A NCAC 02E .0222	12:05 NCR 337									
<b>Motor Vehicles, Division of</b>										
19A NCAC 03D .0525		12:08 NCR 729								
19A NCAC 03I .0100	11:19 NCR 1413									
19A NCAC 03I .0200	11:19 NCR 1413									
19A NCAC 03I .0300	11:19 NCR 1413									
19A NCAC 03I .0400	11:19 NCR 1413									
19A NCAC 03I .0500	11:19 NCR 1413									
19A NCAC 03I .0600	11:19 NCR 1413									

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19A NCAC 03J .0700	11:19 NCR 1413									
19A NCAC 03J .0800	11:19 NCR 1413									
19A NCAC 03J .0102	11:11 NCR 882		11:17 NCR 1340	*	Approve	02/20/97	*		11:24 NCR 1832	
19A NCAC 03J .0306	11:11 NCR 882		11:17 NCR 1340	*	Object	02/20/97				
					Approve	03/20/97	*		11:26 NCR 2004	
19A NCAC 03J .0308	11:11 NCR 882		11:17 NCR 1340	*	Object	02/20/97				
					Approve	03/20/97	*		11:26 NCR 2004	
19A NCAC 03J .0601	11:11 NCR 882		11:17 NCR 1340	*	Approve	02/20/97	*		11:24 NCR 1832	

# BARCLAYS OFFICIAL NORTH CAROLINA ADMINISTRATIVE CODE - 1997

DESCRIPTION	CODE	ANNUAL SUBSCRIPTION PRICE
<b>Title 1 - Dept. of Administration - Complete Title</b>	<b>201 00 001</b>	<b>\$90.00</b>
Division of Purchase & Contract	201 10 051	\$30.00
Federal Block Grant Funds	201 10 331	\$25.00
<b>Title 2 - Dept. of Agriculture - Complete Title</b>	<b>202 00 001</b>	<b>\$140.00</b>
Food & Drug Protection Division	202 15 091	\$35.00
Structural Pest Control Committee	202 15 341	\$30.00
Agricultural Markets	202 15 431	\$30.00
Plant Industry	202 15 481	\$30.00
Animal Industry	202 15 521	\$30.00
<b>Title 3 - Dept. of State Auditor - Complete Title</b>	<b>203 00 001</b>	<b>\$25.00</b>
<b>Title 4 - Dept. of Commerce - Complete Title</b>	<b>204 00 001</b>	<b>\$125.00</b>
Alcoholic Beverage Control Commission	204 15 021	\$45.00
Banking Commission	204 15 031	\$45.00
Credit Union Division	204 15 061	\$25.00
Savings & Loan Division	204 15 091	\$25.00
Industrial Commission/Workers Compensation	204 15 101	\$30.00
Savings Institutions Division	204 15 161	\$35.00
<b>Title 5 - Dept. of Corrections - Complete Title</b>	<b>205 00 001</b>	<b>\$70.00</b>
Division of Prisons	205 15 021	\$35.00
<b>Title 6 - Council of State - Complete Title</b>	<b>206 00 001</b>	<b>\$30.00</b>
<b>Title 7 - Dept. of Cultural Resources - Complete Title</b>	<b>207 00 001</b>	<b>\$60.00</b>
<b>Title 8 - State Board of Elections - Complete Title</b>	<b>208 00 001</b>	<b>\$30.00</b>
<b>Title 9 - Offices of the Governor &amp; Lt. Governor - Complete Title</b>	<b>209 00 001</b>	<b>\$45.00</b>
<b>Title 10 - Dept. of Human Resources - Complete Title</b>	<b>210 00 001</b>	<b>\$470.00</b>
Licensing of Health Facilities	210 20 101	\$95.00
Detention Facilities	210 20 201	\$40.00
Mental Health & Rehabilitation Services	210 20 301	\$110.00
Social Services	210 20 401	\$185.00
Children Services/Day Care	210 20 411	\$55.00
Services for the Aging	210 20 421	\$45.00
Services for the Blind	210 20 431	\$40.00
Services for the Deaf & Hard of Hearing	210 20 441	\$25.00
Employment Opportunities	210 20 451	\$45.00
<b>Title 11 - Dept. of Insurance - Complete Title</b>	<b>211 00 001</b>	<b>\$90.00</b>
Insurance	211 10 011	\$80.00
Consumer Services	211 10 041	\$30.00
Fire & Rescue Services	211 10 051	\$25.00
Agent Services	211 10 061	\$35.00
Engineering & Building Codes	211 10 081	\$30.00
<b>Title 12 - Dept. of Justice - Complete Title</b>	<b>212 00 001</b>	<b>\$90.00</b>
Private Protective Services	212 10 071	\$30.00
Police & Sheriff's Education & Training Standards	212 10 091	\$40.00
NC Alarm Systems Licensing Board	212 10 111	\$30.00
<b>Title 13 - Dept. of Labor - Complete Title</b>	<b>213 00 001</b>	<b>\$110.00</b>
Mine & Quarry Safety	213 15 061	\$25.00
General Safety/OSHA	213 20 001	\$70.00
Wage & Hour Rules	213 15 121	\$25.00
Boiler & Pressure Vessel Safety	213 15 131	\$25.00
Apprenticeship & Training	213 15 141	\$25.00
Elevator & Amusement Device Safety	213 15 151	\$25.00
<b>Title 14A - Dept. of Crime Control &amp; Public Safety - Complete Title</b>	<b>214 00 001</b>	<b>\$45.00</b>
Alcohol Law Enforcement	214 00 081	\$25.00
Victims Compensation Fund	214 00 111	\$25.00
<b>Title 15A - Dept. of Environ., Health, &amp; Nat. Resources - Complete Title</b>	<b>215 00 001</b>	<b>\$395.00</b>
Environmental Management	215 15 001	\$165.00
Air Quality	215 15 101	\$90.00
Water Quality	215 15 201	\$85.00
Land & Waste Management	215 15 301	\$85.00
Solid Waste Management	215 15 311	\$50.00

DESCRIPTION	CODE	ANNUAL SUBSCRIPTION PRICE
Underground Storage Tanks	215 15 321	\$30.00
Coastal Management, Fishing & Boating	215 15 401	\$53.00
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